

## **LOCAL REVIEW BODY**

At a Meeting of the Local Review Body held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 27 January 2016 at 4.02 p.m.

**Present:** Councillors Gail Casey, Jonathan McColl, John Mooney, Lawrence O'Neill and Tommy Rainey.

**Attending:** Alison O'Kane, Planning Adviser; Nigel Ettles, Legal Adviser; Alan Williamson, Team Leader, Forward Planning; and Craig Stewart, Committee Officer, Legal, Democratic and Regulatory Services.

**Apologies:** Apologies for absence were intimated on behalf of Provost Douglas McAllister and Councillors Jim Finn and Hazel Sorrell.

**Councillor Lawrence O'Neill in the Chair**

### **DECLARATIONS OF INTEREST**

It was noted that there were no declarations of interest in the item of business on the agenda.

### **MINUTES OF PREVIOUS MEETINGS**

The Minutes of Meetings of the Local Review Body held on 26 June 2013 and 3 September 2014 were submitted and approved as correct records.

### **APPLICATION FOR REVIEW: DC15/137**

Review papers were submitted for Planning Application DC15/137 – Proposed change of use of existing building to business use (Retrospective) at Fisherwood House, Balloch.

The Planning Adviser, Ms O'Kane, advised the Committee that the matter brought before the Local Review Body (LRB) related to a planning application submitted by Mr Michael Mason. The Planning Officer was then heard in relation to the background and current position with regard to the matter, and the Review documents and photographs of the site were considered by the LRB.

Prior to the determination of the Review, the Chair, Councillor O'Neill, thanked the Planning Adviser and invited the LRB to comment on whether they considered they had sufficient information to enable them to determine the Review. Following discussion, Members indicated that they considered they did not have sufficient information and would require a site inspection before determining this matter.

The Chair, Councillor O'Neill, then confirmed that the LRB would carry out a site inspection, to which the applicant and the objector would be invited, and that the application would be continued to an adjourned meeting of the LRB in order that a decision could be made in respect of this matter.

The meeting closed at 4.20 p.m.

DRAFT

APPLICATION FOR REVIEW AND SUPPORTING DOCUMENTS

DC15/137

PLANNING SERVICES RECEIVED	
07 DEC 2015	
PASS TO	
REF. No.	

Notice of Review

## NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)  
IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

### Applicant(s)

Name	Michael Mason
Address	Fisherwood House Lomond Road Balloch
Postcode	G83 8SJ
Contact Telephone 1	01389 720 802
Contact Telephone 2	07831 846 184
Fax No	
E-mail*	fisherwoodhouse@btinternet.com

### Agent (if any)

Name	
Address	
Postcode	
Contact Telephone 1	
Contact Telephone 2	
Fax No	
E-mail*	

Mark this box to confirm all contact should be  
through this representative: ☐

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes ☒ No ☐

Planning authority	West Dunbartonshire
Planning authority's application reference number	DC15 / 137
Site address	As above
Description of proposed development	Change of Use of Existing Building to Business Use (Retrospective)
Date of application	22 06 15
Date of decision (if any)	15 09 15

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.



PLANNING SERVICES  
RECEIVED

07 DEC 2015

**Nature of application**

PASS TO    
REF. No.

**Notice of Review**

1. Application for planning permission (including householder application) ☒
2. Application for planning permission in principle ☐
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

**Reasons for seeking review**

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☒
3. Conditions imposed on consent by appointed officer ☐

**Review procedure**

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

1. Further written submissions ☐
2. One or more hearing sessions ☐
3. Site inspection ☒
4. Assessment of review documents only, with no further procedure ☒

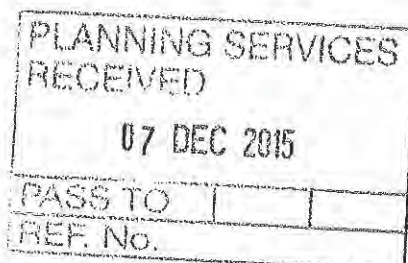
If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

**Site inspection**

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- |  | Yes                                 | No                                  |
|--|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land?                                 | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:



## Notice of Review

### Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Please see paper apart, Appendix B - Statement

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes ☐ No ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.





## Notice of Review

### List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

APPENDIX A - BACKGROUND  
APPENDIX B - STATEMENT  
APPENDIX C - ADDRESSING REASONS FOR REFUSAL  
APPENDIX D - PROCESS BY PLANNING DEPARTMENT  
APPENDIX E - IS PLANNING PERMISSION REQUIRED AT ALL?  
APPENDIX F - PERSONAL CIRCUMSTANCES  
APPENDIX G - EMAIL CORRESPONDENCE WITH PLANNING DEPARTMENT PRIOR TO DECISION  
APPENDIX H - EMAIL CORRESPONDENCE WITH PLANNING DEPARTMENT CONFIRMING PLANNING PERMISSION IS GRANTED  
APPENDIX I - DOCUMENT REF. 3012194, GENERAL CASE CORRESPONDENCE

(Appendices A to E are a single document)

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

### Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review
- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

### Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

M P Mason

Date

07 12 15

## DC15 / 137 - Fisherwood House, Balloch, G83 8SJ - Change of Use to Business

### APPENDIX A - BACKGROUND

Fisherwood House was built in 1902, by J J Burnett in Arts & Crafts Style.

It was commissioned by the McClintoch family after they saw the work of J J Burnett in the rebuilding of the *Tullichewan Hotel* in 1898 following a fire. The McClintoch's occupied both parts separately; with the father in the northerly dwelling (neighbour) and the son in the southerly part (applicant). Fisherwood was built as, and has always been, two separate dwellings, with no internal link.

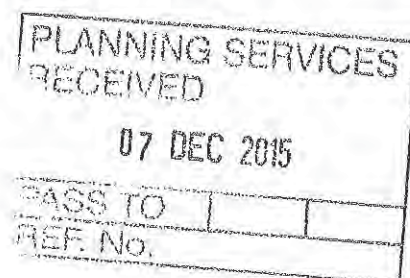
In around 1960, the northern-most house (neighbours) was sold off by the then owner of the southern-most dwelling (applicant). The subsequent ground division was uneven and reflected the desire of the seller to retain as much benefit as possible for the southerly dwelling (applicant). (The attached Boundary Plan refers.)

The southern-most dwelling has its garage behind the northerly dwelling and has the right to drive right around the house. The Boundary Site Plan Document no.302196 refers.

Importantly the southern-most dwelling (applicant) separately owns the driveway, shown in blue, over which the owners of northerly property has been granted a temporary right of access over a small portion.

In 1999, with the full prior consent of my neighbour, I sited a Portacabin in the grounds of my home to use as an office. I did not apply for Planning Permission at that time. I was offered the building providing I "moved it immediately". I subsequently ran my business from the building.

This case centres on a retrospective Planning Application for Change of Use of the building as holiday accommodation.

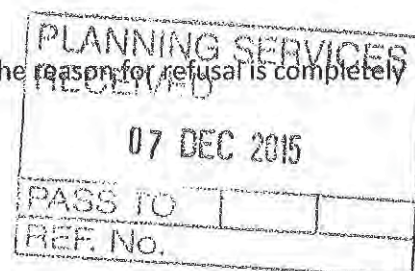




## APPENDIX B - STATEMENT

I have listed documents apart to provide background to this statement but the essential facts are:

1. In 1999, with the full prior consent of my neighbour, I sited a Portacabin in the grounds of my home to use as an office. I did not apply for Planning Permission. I was offered the building providing I "moved it immediately". I ran my business from the building.
2. (Please refer to APPENDIX D - PROCESS BY PLANNING DEPARTMENT for details of the planning process. Apologies for the necessary repetition of some key facts.)
3. Following an Enforcement Notice issued in March 2015 on 23rd June 2015 I submitted a full (retrospective) Planning Application for Change of Use.
4. Over 2 months later, in late August 2015 and was told by phone by Lorna Ramsey that "having completed my report I have recommended that planning be granted", subject to some (reasonable and acceptable) conditions. *This was confirmed by email dated 27 August 2015 (attached, Appendix H).*
5. On September 9<sup>th</sup>, over 2½ months after submission, I received a notice that Planning Permission had been refused.
6. I submit that the subsequent refusal was unreasonable, not least given the two planning officers that have made site visits, Stewart MacCallum and Lorna Ramsey considered that "no action was required" and that "Planning Permission would be granted" respectively.
7. The reason for refusal, based upon an opinion from someone who has not made a site visit is perverse.
8. However my main reason for requesting Local Review is that the reason for refusal is completely invalid, and I have addressed this fully in Appendix C.



## APPENDIX C - ADDRESSING REASON FOR REFUSAL

The reason for refusal, in full is:

*"The use of the outbuilding as self-contained living / holiday accommodation for let detracts from the privacy and amenity of the adjacent house, and such use is therefore contrary to Policies LE7 and H5 of the adopted West Dunbartonshire Local Plan 2010, and Policy BC3 of the emerging West Dunbartonshire Local Development Plan."*

In this Appeal I have only dealt with this point, but far more background is available in 'Document Ref. 3012194, General Case Correspondence', submitted as part of the original application, which should be read as part of this appeal to understand the context, attached as Appendix I.

The Cottage accommodates a maximum of two people, with no pets or children permitted.

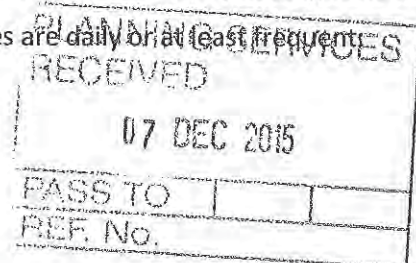
In considering the refusal there are a number of points but the only key question, in addition to the obvious, "Is there any impact on the neighbour?" would seem to be, **"Would refusal of Planning Permission have any positive impact on any disturbance to the neighbour?"**

The answer is no. Let's consider all the possible ways that the neighbour could possibly be disturbed by guests in the Cottage:

### 1. Footfall near neighbour's back door (that is on my property)

By far the greatest footfall along that section of my driveway is from myself and my houseguests that are helping to restore the garden. Some, or all, of these activities are daily or at least frequent.

- Going to and from my bins
- Sawing and chopping logs
- Collecting logs
- Going to and from the workshop and garden machinery store in my garage (historically entirely sited in the neighbour's garden)
- Driving my motorbike in and out of my garage
- Taking the boats and trailers in and out of my garage
- Significant garden work and restoration - we do this a lot
- Going to and from the entrance to the gate to the river
- Collecting and returning our bikes from the Wash House
- Taking the compost out
- Cleaning tools and boots at the outside tap
- Hanging the washing out





- Taking the kayaks out onto the river

As for the guests, they access the Cottage entirely on my property, do none of the things that I have listed above, and often use the river entrance to come to and from (that is nowhere near the neighbour), so account for a tiny part of the coming and going.

## 2. Guest's vehicles

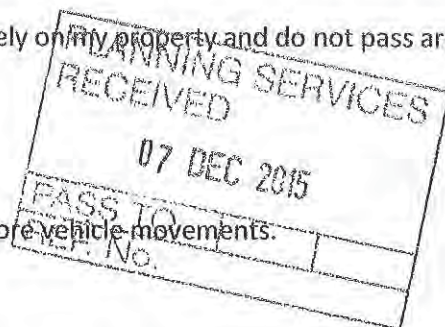
Extract from the directions that I provide for guests: *"PARKING YOUR CAR - When coming in the gate please go straight on and park on the hard-standing at end of the driveway."*

Roughly half the guests arrive by public transport.

Guests that do arrive by car drive in and park, both entirely on my property and do not pass around the rear of the property.

Guests never have more than one vehicle.

Myself, my family, friends, and visitors account for far more vehicle movements.



## 3. Guests calling at the neighbour's door in error

I ask guests that arrive by train to text me when they are on their way and then I meet them on the platform.

Guests with cars are asked to provide an ETA and as soon as they pull into my driveway I walk out to meet them.

Additionally, when I give directions to guests I state, *"My front door is on the furthest side from the road. Please do not go to the first door behind the picket fence and disturb my neighbours"*.

One of the (acceptable) Planning Conditions is for the erection of clear signage to avoid any possibility of disturbance. The layout of the driveway allows for unambiguous signage to be included.

## 4. Guests on any part of the neighbouring property, even those areas that are shared access.

Extract from the directions that I provide for guests: *"Although it is possible to drive around Fisherwood House please do not go around the rear of the property."*

## 5. Visual amenity

The Cottage cannot be seen from any window in either house. The neighbour can only possibly see the Cottage if they choose to walk to their back door - which they very seldom ever do. The neighbour cannot see the guests walking from their cars to the Cottage.

The neighbour has no window that overlooks the Cottage.

## 6. Noise

There is a maximum of two guests in the Cottage, and a minimum stay of two nights. Check in is 14.00 and check-out is 11.00 so there are no arrivals or departures 'out of hours'. Guests arrive at pre-arranged times, and do not arrive or leave at unsocial hours, or create noise and disturbance.

I have never experienced any guest making any noise of any sort.

Due to the division of the site in 1960 in huge favour of my property there can really be no expectation of privacy by my neighbour:

1. I undertake all the activities from point one, above, on the portion of the driveway with shared access.
2. I can, and do drive, walk, and cycle right around the property as I come and go, including the section of shared driveway that is 2m from the windows of the neighbour's public rooms. This arrangement is not reciprocal; the neighbour cannot access the driveway section outlined in blue on the Parking Plan submitted with the original application. In fact my neighbour has to cross my property to access the road.
3. My garage and workshop is entirely sited in the neighbour's garden, outside the windows of their main public rooms. (Of course I try to limit access and use outwith social hours).

### References to Local Plan

I dispute that the development is, "contrary to Policies LE7 and H5 of the adopted West Dunbartonshire Local Plan 2010, and Policy BC3 of the emerging West Dunbartonshire Local Development Plan."

### West Dunbartonshire Local Development Plan (Proposed Plan) Policy LE 7

#### *Business Development in Mixed Use or Residential Areas.*

**[I propose that WDC should support the development under the terms of Policy LE7.]**

*Proposals for business development, within residential areas or in mixed use schemes will be supported by the Council where it is satisfied that residential amenity or the surrounding uses are not adversely affected.*

*The following criteria will be used in assessing such proposals:*

- ✓ *the effect on residents and adjacent uses in terms of noise, vibration, emissions, traffic, parking, storage of materials, hours of working or other adverse impacts;*
- ✓ *the cumulative effect of any impacts;*
- ✓ *access to the business use; shared access to stand alone business premises will not be favoured and the cumulative traffic impact of the residential and business elements of an area will be taken into consideration;*



*Reasoned Justification Small firms are recognized in SPP 2 as making an important contribution to the economy. It is considered start-up firms should be encouraged and positive policies used to ensure suitable locations are used for their operation. SPP 2 requires that development plan policies should recognize such businesses where low-impact industry, business and service uses can operate in keeping with housing. Policy LE 7 sets out the criteria for the consideration of small scale business operations within mixed-use or residential areas indicating the requirements such uses need to meet to ensure there are no adverse impacts on the surrounding environment.*

#### **West Dunbartonshire Local Plan 2010 Policy H5 - Development within Existing Residential Areas**

*The character and amenity of existing residential areas, identified on the Proposals Map, will be safeguarded and where possible enhanced. Development within existing residential areas will be considered against the following criteria:*

- *the need to reflect the character of the surrounding area in terms of scale, density, design and materials;*

[The outbuilding does reflect the character of the surrounding area. It consists one small scale timber lodge, screened by trees (no trees were removed to site the Portacabin), and is timber clad and stained brown with a black roof and green window frames.]

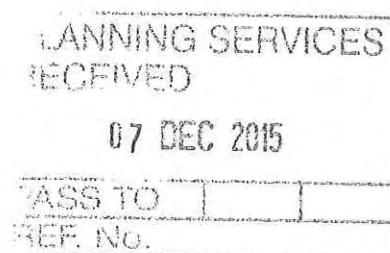


- *the requirement to avoid over development which would have an adverse effect on local amenity, access and parking or would be out of scale with surrounding buildings;*

[There are no parking issues, there is ample parking for 6+ cars and, with a maximum of two guests there is never more than a single vehicle. (But most guests use public transport). No additional hard standing was created, and any parking is not out of scale with surrounding buildings.]

- *the need to retain trees, hedgerows, open space and other natural features;*

[The siting of the outbuilding caused no loss of natural features but did, and does involve: replanting of shrubs, clearing of weeds, and removal of many rhododendrons, and re-instatement of a 'lost garden' from 1902.]





- *extensions to dwellings must complement the character of the existing building, particularly in terms of scale and materials; not dominate in terms of size or height, and not have a significantly adverse affect on neighbouring properties; the subdivision of the curtilage of a dwelling for a new house should ensure that the proposed plot can accommodate a house and garden; the new house and garden to be of a scale and character appropriate to the neighbourhood; sufficient garden ground should be retained for the existing house; the privacy of existing properties should not be adversely affected and separate vehicular accesses should be provided;*

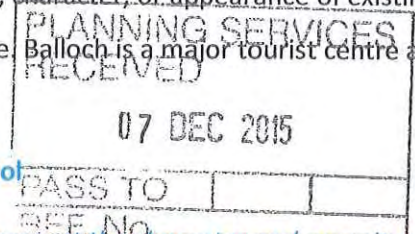
[The outbuilding and restored landscaping complements the existing building, and, in any event, due to established hedges, the building and existing dwellings cannot be seen together. The look and feel of the outbuilding is of a woodland lodge - in a wood.]

- *with regard to non-residential uses, whether they can be considered ancillary or complementary to the residential area, and would not result in a significant loss of amenity to the surrounding properties. A significant loss of amenity might be expected to occur as a result of increased traffic, noise, vibration, smell, artificial light, litter, hours of operation and general disturbance;*

[As the attached documents demonstrates there is no loss of amenity to the only neighbouring property. There is no increase in traffic, noise, vibration, artificial light, litter, hours of operation, or general disturbance. (Most days I collect, and recycle litter, from the towpath and woods!)]

#### **West Dunbartonshire Local Development Plan (Proposed Plan) Policy BC3**

- *"Development that would significantly harm the residential amenity, character or appearance of existing neighbourhoods will not be permitted."*
- [There is certainly no significant harm to the residential amenity, character, or appearance of existing neighbourhoods. The building can barely be seen from anywhere. Balloch is a major tourist centre and the neighbourhood consists of many B&Bs.]



#### **West Dunbartonshire Local Plan 2010 Policy GD 1 - Development Control**

*All new development is expected to be of a high quality of design and to respect the character and amenity of the area in which it is located. Proposals will be required to:*

- *be appropriate to the local area in terms of land use, layout and design (including scale, density, massing, height, aspect, effect on day lighting, crime prevention measures and privacy); developers will be required to submit design statements where appropriate;*

[The land use, layout, and design are appropriate for the site, not least confirmed by the letter from WDC, dated 14 October 2008, confirming no further action.]

- *be energy efficient, including considering options for micro-renewable technologies;*

[The building is well insulated and makes use of low energy heating and lighting as appropriate.]



- *ensure that landscaping is integral to the overall design, that important landscape features and valuable species and habitats are conserved and where possible enhanced, and that there is an emphasis on native planting;*

[The restoration of the 'lost garden' and significant new landscaping has certainly enhanced the site. The removal of many invasive rhododendrons continues and there is an emphasis on native planting.]

- *ensure that the value of the historic and natural environment is recognized, and is not devalued or threatened by the proposal;*

[Again, the restoration of the 'lost garden' and use of natural materials from the site for landscaping has certainly enhanced the site. Landscaping and paths are 'soft' and have utilized many materials reclaimed from the site, such as fallen trees and discarded timber.]

- *ensure that open space standards are met;*

[Not applicable.]

- *assess and address any existing or potential increase in flood risk and/or environmental pollution, provide drainage consistent with Sustainable Urban Drainage Systems design guidance and ensure that suitable remediation measures are undertaken on contaminated sites;*

[Not applicable - no environmental pollution issues. The site is some 17m above the 200 year flood event as identified by WDC's own plan as attached.]

- *demonstrate, where appropriate, that the development will not result in a negative impact on the water environment;*

[Not applicable.]

- *ensure that increases in traffic volumes and adverse impacts on air quality are avoided or minimized by including provision for public transport, pedestrian and cycling access, and considering the need for a Green Travel Plan;*

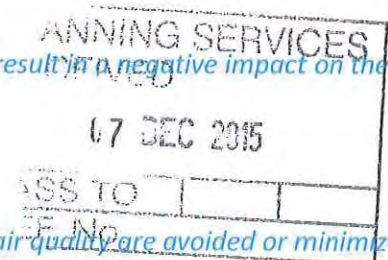
[Most guests to the building arrive by public transport and I provide timetable for trains and buses. The site is adjacent Balloch Station and a few minutes' walk from Balloch Bus Stance. There are a variety of shops within walking distance so even those few that arrive by car tend not to use them once here. I provide free use of bicycles and cycle route maps and maps of the *John Muir / Three Lochs Walking Route*.]

- *meet the roads, parking and access requirements of the Council (particularly for disabled people and the emergency services) reflecting national guidance where appropriate;*

[There is off-road parking, otherwise not applicable.]

- *consider the availability of infrastructure and the impact on existing community facilities;*

[Not applicable.]



- minimize waste, and provide for the storage, segregation and collection of recyclable and compostable material; a Site Waste Management Plan may be required;

[An extract from the Guest Guide:

***"BINS / RUBBISH / RECYCLING – PLEASE RECYCLE***

*Please put plastic drinks bottles, and milk cartons – types 1 & 2 only (rinsed and with the tops removed), clean cans & tins, and clean paper and cardboard in the blue wheelie bin. Other plastic, e.g. bags, film, Tetra Paks (fruit juice), yoghurt and margarine pots, go in the green wheelie bin.*

*Glass bottles and jars: please just leave them for me, or take them to the recycling bins opposite Lomond Stores, or in the car park at the Co-op.*

*Please put compostable material in the brown wheelie bin.*

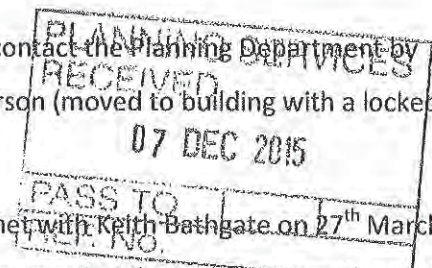
*Please put all other rubbish in the green wheelie bin."*]





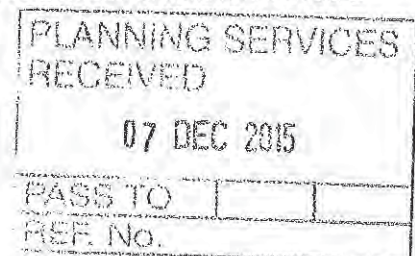
## APPENDIX D - PROCESS BY PLANNING DEPARTMENT

1. In 1999, with the full prior consent of my neighbour, I sited a Portacabin in the grounds of my home to use as an office. I did not apply for Planning Permission. I was offered the building providing I "moved it immediately". I ran my business from the building.
2. In round 2003 the Planning Department became aware of the building and an officer made a site visit and noted that I should have applied for Planning Permission, but after some subsequent correspondence and telephone conversations the officer wrote, 5 years later, in October 2008 to say that "no further action was required [from the Planning Department] and the matter was closed". This was on the basis that the building was small and discrete, could not be seen from either house, and wasn't causing a problem. No Enforcement was discussed or actioned. I regret that the siting of the outbuilding did not follow the usual planning route.
3. At times during that period, and to the current date, I had rented out the building as accommodation / holiday accommodation.
4. In March 2015 the Planning Department issued an Enforcement Notice (later extended) based on 'Breach of Planning due to use of the outbuilding as holiday accommodation' (through Airbnb). I question if the enforcement notice was served as required by Section 172 which requires the Council to undertake reasonable enquiries so as to be able to serve a copy of the EN on everyone who has an 'interest' in the land, i.e. the Planning Department did not seek to understand the actual position. This view is enforced by a subsequent meeting at the Planning Department, following a detailed response from myself where it was suggested, and confirmed in writing (email dated 5<sup>th</sup> May 2015, attached), that now they were aware of the facts that were I to submit a Planning Application it would be "viewed favourably".
5. Following the Enforcement Notice I found it very difficult to contact the Planning Department by phone ("no more messages"), email ("mailbox full"), or in person (moved to building with a locked door and no entry phone).
6. However, eventually I visited the Planning Department and met with Keith Bathgate on 27<sup>th</sup> March 2015. Through subsequent email exchanges, attached, I was persuaded that submitting a Planning Application was the best way forward. Keith confirmed in writing (email dated 5<sup>th</sup> May 2015) as attached: *"Notwithstanding my earlier letter accompanying the original enforcement notice, I am now of the view that the Planning Service would probably view such an application favourably provided that you could show adequate parking and access arrangements (which I understand from our meeting are not likely to be a problem)."*
7. As a result of advice from Keith Bathgate, on 23<sup>rd</sup> June 2015 I submitted a full (retrospective) Planning Application for Change of Use.





8. Over 2 months later, in late August 2015, Lorna Ramsey left me a voicemail saying "having completed my report I have recommended that planning be granted", subject to some (reasonable and acceptable) conditions. This was confirmed by email dated 27 August 2015 (attached).
9. On September 9<sup>th</sup>, over 2½ months after submission, I received a notice that Planning Permission had been refused.
10. I telephoned Keith Bathgate and he said that he was "embarrassed" by the change of outcome but that Pamela Clifford had decided that there was a loss of privacy to the neighbour. I find this perverse, not least given that the two Planning Officers that have made site visits, Stewart MacCallum and Lorna Ramsey considered that "no action was required" and that "Planning Permission would be granted" respectively.
11. I requested a copy of Lorna's report that I found had been changed to, "recommend that planning be refused".
12. I requested a copy of the original report, *"Dear Keith, Thank you for the copy of the 'final' report. This is clearly not the report that Lorna used when she wrote on 27 August stating, "In my report I have recommended that planning be granted for the use with 2 conditions." Can I please have a copy of that report. I can confirm that I will be preparing documents for a Local Review"*.
13. Keith replied, *"Lorna had submitted her draft report recommending approval, however following discussions with managers the officers agreed that we were not able to support the proposal and therefore the report was amended by me to recommend refusal. However, it was a single MS Word document throughout on which all changes were saved. The final report (legally the "Report of Handling") is the Planning Service's record of how and why we decided the application, and I am afraid that we do not have any earlier drafts of it."* The Planning Department almost certainly create a daily backup of documents on the server and I ask that those reviewing this case request a copy of that version for comparison.
14. Keith suggested that I apply for Local Review.
15. (As an added annoyance as part of the application process I had to, and did immediately pay the £125 advertising fee - and received an acknowledgment. I was subsequently chased for payment and telephoned and it was agreed that I had paid and the reminder was a mistake. I then received a Sheriff's Warrant...)



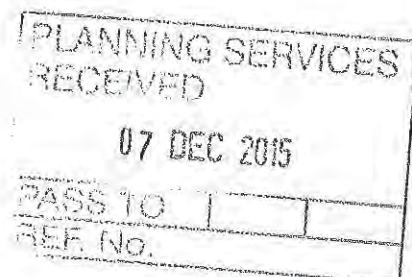
## APPENDIX E IS PLANNING PERMISSION REQUIRED AT ALL?

There are three reasons that I submit cast doubt over the need to apply for Planning Permission for Change of Use in the first instance:

1. I question whether letting through Airbnb constitutes 'business use'. In Glasgow, during the Commonwealth Games, there was a link on the front page of the official Games website to Airbnb. (Airbnb and related sites encourage non-travellers to book and use a new source of accommodation.) In England the Environment Secretary said in this regard *"It's time to change the outdated, impractical and restrictive laws from the 1970s, open up London's homes to visitors and allow Londoners to make some extra cash."* So, I suggest that it may not be long before a similar change should be made in Scotland.

There are over 300 listings in the Loch Lomond area, many of which are for full use of separate buildings. Will WDC be researching these other property listings and serving Enforcement Notices on all such similar properties? During the Commonwealth Games Glasgow City clearly felt that Planning Permission was not required.

2. In any event the outbuilding was sited/constructed as an office for my business, and acknowledged to be so by WDC, i.e. 'business use' since 1999.
3. The outbuilding is within the curtilage of my dwelling and can be part of a B&B, which would require no Planning Permission - even if marketed through Airbnb or Holiday Lettings. (The disturbance of running a B&B would be much greater, including anti-social hours, spontaneous callers, and more vehicles.)





## APPENDIX F - PERSONAL CIRCUMSTANCES

*The personal circumstances, including such matters as health, housing needs and welfare, of persons suspected of acting in breach of planning control must be taken into account when deciding whether to take enforcement action. (See R v Kerrier DC, ex parte Uzell [1996] 71 P&CR 566).*

**Michael Mason**

**From:** keith bathgate [keith.bathgate@west-dunbarton.gov.uk]  
**Sent:** 05 May 2015 17:57  
**To:** 'Fisherwood House'  
**Subject:** RE: Fisherwood House Enforcement Notice (EP14/047) - Evidence of Rentals

Dear Mr Mason,

Once again please accept my apologies for the length of time it has taken me to respond to your email.

Thank you for providing details of the previous rentals of the outbuilding. I note that the list is incomplete because you cannot remember details of the older rentals, but unfortunately in order to obtain a certificate of lawfulness under the "ten year rule" you would have to be able to demonstrate ten years of reasonably continuous use, and I am not sure that this evidence does that. Rather, what it appears to do is confirm that there was initially intermittent use, mainly by family/friends (as I assume from the recurrence of the same names), and that this gradually evolved into the current situation where the accommodation is actively marketed to the general public and is in fairly continuous use. Your list shows only three lets in the six years prior to 2006 (albeit that two of these were for six month periods), and that the more-or-less continuous use did not begin until around 2012. It is hard to state exactly when the "material change of use" actually occurred, but on the evidence available I think we would be very hard pressed to say that it was prior to May 2015. I accept that this summary of the situation may not be entirely accurate because you do not have the details of many of the earlier lets, but we come back to the fact that to obtain a certificate of lawfulness you would need to be able to prove ten years of continuous use, and in my view this list does not do that. You are free to apply for a Certificate of Lawfulness if you chose, but I do not think we would be able to grant it without more evidence of use over the whole ten year period.

I would therefore revert to the suggestion I made at our meeting – i.e. that you submit a retrospective application for planning permission, which would have the same application fee as a CoL. I know that you are reluctant to do this because it inevitably involves a degree of uncertainty, however it seems to me that this approach is more likely to be successful than a CoL application. Whilst your neighbour may well object to the proposal, the Council would reach its own decision about whether the impact upon their amenity was acceptable or not. **Notwithstanding my earlier letter accompanying the original enforcement notice, I am now of the view that the Planning Service would probably view such an application favourably provided that you could show adequate parking and access arrangements (which I understand from our meeting are not likely to be a problem).** However, I obviously cannot pre-judge the outcome of any application.

As regards the enforcement notice, I am conscious that the compliance period will soon be upon us, however the Council will agree to a further extension of this compliance period if this is necessary for you to submit a planning or CoL application. Please could you let me know what your intentions are in this regard.

Please do not hesitate to contact me if you wish to discuss this matter.

Regards,

**Keith Bathgate**  
**Development Management Team Leader**  
**West Dunbartonshire Council**

Planning & Building Standards Service  
 Aurora House  
 3 Aurora Avenue  
 Clydebank  
 G81 1BF  
 0141 951 7946  
[keith.bathgate@west-dunbarton.gov.uk](mailto:keith.bathgate@west-dunbarton.gov.uk)





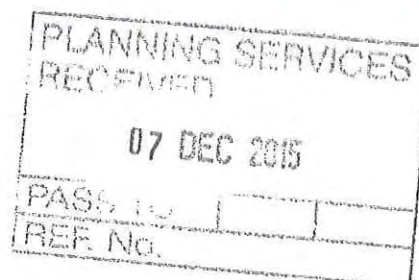
**From:** keith bathgate  
**Sent:** 01 May 2015 11:53  
**To:** 'Fisherwood House'  
**Subject:** RE: Fisherwood House Enforcement Notice (EP14/047) - Evidence of Rentals

Dear Mr Mason,

I apologise for the delay in responding to your emails – I am afraid that things have been particularly hectic this week, and as I finish up at noon today I'm afraid this is just a holding response. However, I have put aside some time in my diary for Tuesday morning to deal with your site and I will get back to you then. In the meantime I realise that the date for compliance with the enforcement notice is looming, but please be assured that the Council would not take matter further without giving you notice of our intentions.

Regards,

**Keith Bathgate**  
**Development Management Team Leader**  
West Dunbartonshire Council  
0141 951 7946



---

**From:** Fisherwood House [<mailto:fisherwoodhouse@btinternet.com>]  
**Sent:** 20 April 2015 10:18  
**To:** keith bathgate  
**Subject:** RE: Fisherwood House Enforcement Notice (EP14/047) - Evidence of Rentals

Dear Keith

Have had had an opportunity to look at the material that I have sent? I am finding this matter pretty stressful.

Kind regards,

Michael

---

**From:** Fisherwood House [<mailto:fisherwoodhouse@btinternet.com>]  
**Sent:** 13 April 2015 18:06  
**To:** 'keith bathgate'  
**Cc:** 'Lorna Ramsey'  
**Subject:** Fisherwood House Enforcement Notice (EP14/047) - Evidence of Rentals

Dear Keith

Thank you again for granting the extra time in order that I could compile the necessary evidence for Section 124 of the 1997 Act (the "ten year rule"), because I can confirm that the property has regularly been used as rented accommodation for more than ten years.

My electronic diary only goes back 4 years so I have been struggling with my memory but have asked those people that stayed that I am still in contact with to write to me, as attached.

Other guests were 'friends of acquaintances' and I have been unable to recall who stayed when. So the attached are only those guests I specifically remember, so the list is heavily weighted towards recent guests.

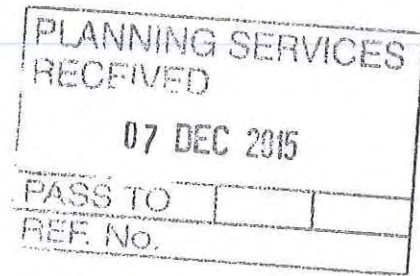
I also attach some sample data from Airbnb and can, of course, provide supporting documents for each booking.

I trust that the attached is sufficient for me to apply for a Certificate of Lawfulness.

Kind regards,



**From:** keith bathgate [<mailto:keith.bathgate@west-dunbarton.gov.uk>]  
**Sent:** 27 March 2015 16:16  
**To:** 'Fisherwood House'  
**Cc:** Lorna Ramsey  
**Subject:** Fisherwood House Enforcement Notice (EP14/047)



Dear Mr Mason,

Further to our meeting this morning with Brian Kirk, I have discussed the matter with my manager and I can confirm that the Council agrees to vary the enforcement notice served on your property by extending the date on which the notice takes effect to **Friday 8 May 2015**, in order that you can supply evidence in support of your view that the use of the building is lawful. The Council has the power to make such variations under the terms of Section 129(1)(b) of the Town and Country Planning (Scotland) Act 1997, and an amended enforcement notice to this effect will be issued to you next week.

From our meeting I understand that you consider that the use of the outbuilding as rented holiday accommodation is lawful because:

- (a) such use does not constitute a material change of use, because the outbuilding is ancillary to the domestic use of your house and its renting out as holiday accommodation would be consistent with the limited "bed and breakfast" use which is allowed by Class 9(b) of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997; and
- (b) even if a change of use had occurred the current use is now lawful by virtue of Section 124 of the 1997 Act (the "ten year rule"), because the property has regularly been used as rented accommodation for more than ten years.

On the first point I concede that a legalistic argument can be framed about the extent of the rights conferred by Class 9(b), however the Council's position is that the use of a separate outbuilding as self-contained accommodation is sufficiently distinct from providing bed and breakfast within a house. I am therefore afraid that argument (a) is unlikely to be accepted by the Council, although you would be free to raise this issue in the context of an appeal against the enforcement notice if you decided to follow that route.

On the other hand continuity of use as rented accommodation for at least ten years would indeed make the use lawful under Section 124, and if you are able to demonstrate that the use has taken place over this length of time then you could apply for a Certificate of Lawfulness under Section 150 of the Act, and if this was successful the Council would withdraw the enforcement notice. I understand from our conversation that this is the route which you favour.

A Certificate of Lawfulness is determined on the basis of law and evidence (as opposed to the planning merits of the development), and it would be up to you to submit evidence proving that on the balance of probability the use has taken place reasonably continuously over at least ten years. If you think that you can do this then you could apply for a C.o.L. for "use of outbuilding as rented holiday accommodation" (or such other form of words as may you think best describes the use). The current fee for a C.o.L. application relating to a change of use is £401 (which is the same fee as that for a planning application). As discussed I would be happy to review the evidence which you are able to provide before you make an application in order to give you an opinion as to whether it is likely to be sufficient. If there is not clear evidence of there being continuous use over ten years you would still have the option of making a retrospective planning application for the use.

Please do not hesitate to contact me if you wish to discuss the matter in the meantime.

Regards,

**Keith Bathgate**  
**Development Management Team Leader**



Aurora House  
3 Aurora Avenue  
Clydebank, G81 1BF  
0141 951 7946  
[keith.bathgate@west-dunbarton.gov.uk](mailto:keith.bathgate@west-dunbarton.gov.uk)



---

**From:** Fisherwood House [<mailto:fisherwoodhouse@btinternet.com>]  
**Sent:** 25 March 2015 09:04  
**To:** keith bathgate; Pamela Clifford  
**Cc:** R Kirk Brian  
**Subject:** URGENT: Fisherwood House Enforcement Notice  
**Importance:** High

Dear Keith and Pamela,

I have been trying to get hold of you in Lorna's absence but it seems the numbers on your letter are disconnected and the new numbers just ring out.

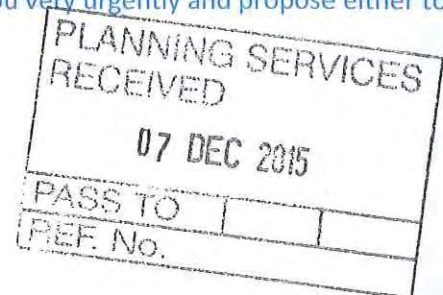
I am VERY keen to meet with you to discuss my letter, hand delivered to your new offices on 19 inst in order that I can establish the next steps.

The deadline for the enforcement notice is 6 April so I need to meet with you very urgently and propose either today (Wednesday), Friday (27<sup>th</sup>), or Monday (30<sup>th</sup>).

Please advise.

Regards,

Michael Mason  
01389 720 802  
07831 846 184



---

**From:** Lorna Ramsey [<mailto:Lorna.Ramsey@west-dunbarton.gov.uk>]  
**Sent:** 19 March 2015 15:03  
**To:** 'Fisherwood House'  
**Subject:** RE: Fisherwood House Enforcement Notice

Hi Michael

Yes, I received your letter today, thanks for responding to the enforcement notice.

I will need to sit down with my manager (Pamela Clifford) and Team Leader (Keith Bathgate) to discuss the points you have made in your letter.

I am on annual leave all next week so I don't know if you will hear anything from us until I am back, but both Keith and Pamela have a copy of your letter anyway if they want to contact you or discuss it while I am off.

Best regards,

**Lorna Ramsey**  
**Planning Officer**  
**West Dunbartonshire Council**  
**0141 951 7940**

---

**From:** Fisherwood House [<mailto:fisherwoodhouse@btinternet.com>]  
**Sent:** 19 March 2015 09:29

**To:** Lorna Ramsey  
**Subject:** Fisherwood House Enforcement Notice

Hi Lorna,

I just wanted to check that you received my letter yesterday?

Kind regards,

Michael Mason

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PLANNING SERVICES RECEIVED	
07 DEC 2015	
PASS TO	
REF. NO.	

**Michael Mason**

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**From:** Lorna Ramsey [Lorna.Ramsey@west-dunbarton.gov.uk]  
**Sent:** 27 August 2015 10:32  
**To:** Fisherwood House (fisherwoodhouse@btinternet.com)  
**Subject:** Use of outbuilding as holiday accommodation (retrospective) Planning app.no. DC15/137

Good morning Michael

Just to provide you with an update on your planning application, I have now completed my report and it is currently with the Team Leader for reviewing. **In my report I have recommended that planning be granted for the use with 2 conditions.** The first condition relates to the parking area where you advise guests to park. On one of the drawings submitted with your application it shows that the hardstanding has space for 4 to 6 cars to park. During my visit to your property I didn't think it looked like there was sufficient space to park that many cars, possibly because the area is a bit overgrown. I have therefore added a condition requiring improvements to be made to the parking area to ensure that each parking space is at least 4.8 metres by 2.5 metres and clearly defined as a parking space.

I have also added a condition about some signage to be displayed on the property to make it clear to guests which door they should be entering. When I visited your property I still wasn't sure which door to go to, so some signage would help guide visitors to the right door and reduce the risk of them going to your neighbour's door by mistake.

As the Team Leader is still to review the report he may make changes to the conditions or add other conditions but I can let you know if that happens.

(Note regarding a separate, unrelated matter, redacted by Applicant)

(The conditions proposed are reasonable and entirely acceptable to the Applicant)

Regards  
Lorna

**Lorna Ramsey**  
**Planning Officer**  
**West Dunbartonshire Council**  
**0141 951 7940**



[systems.manager@west-dunbarton.gov.uk](mailto:systems.manager@west-dunbarton.gov.uk)



## Appendix I - Document Ref 3012194 - General Case Correspondence

### 1. Rationale for Planning Application

Following a meeting with the Planning Department at West Dunbartonshire Council in March 2015 and subsequent correspondence, in response to an Enforcement Notice, it was agreed that a retrospective Planning Application for a Change of Use of an existing Summerhouse / Guest House to 'business' would be an appropriate route to regularize the current situation where I let the building as holiday accommodation.

### 2. History of Fisherwood House

Fisherwood House was built in 1902, by J J Burnett in Arts & Crafts Style.

It was commissioned by the McClintoch family after they saw the work of J J Burnett in the rebuilding of the *Tullichewan Hotel* in 1898 following a fire. The McClintoch's occupied both parts separately; with the father in the northerly dwelling (my neighbours) and the son in the southerly part (that I now occupy).

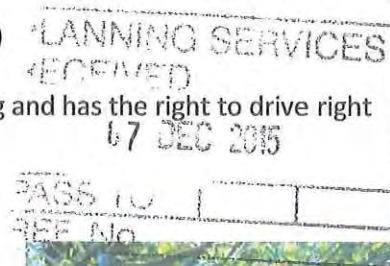


Fisherwood was built as, and has always been, two separate dwellings, with no internal link.

In around 1960, the northern-most house was sold off by the then owner of the southern-most dwelling. The subsequent ground division was uneven and reflected the desire of the seller to retain as much benefit as possible for the southerly dwelling. (The attached Boundary Plan refers.)

The southern-most dwelling has its garage behind the northerly dwelling and has the right to drive right around the house. The attached Boundary Site Plan refers.

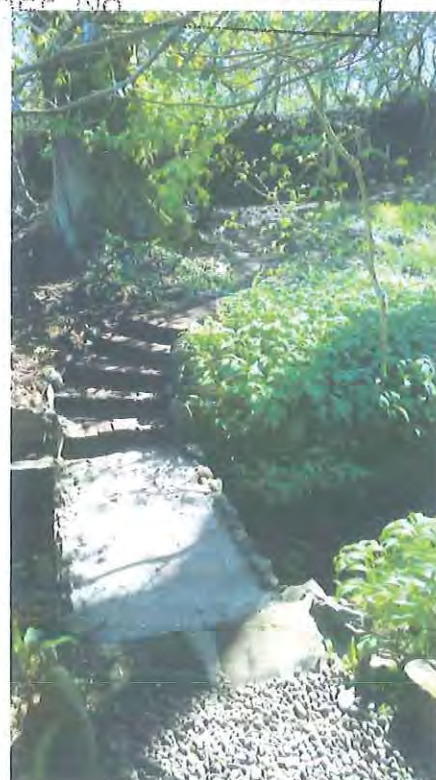
Importantly the southern-most dwelling (myself) separately owns the driveway, shown in blue, over which the owners of northerly property has been granted a temporary right of access over a small portion.



### 3. Restoration of Fisherwood House and Garden

Since purchasing the southerly dwelling of Fisherwood House in February 1999, I have been restoring the interior and exterior of the property.

After the house was completed in 1902 the owners commissioned Neil Leetch, the Landscape Architect from Mount Stuart on the Isle Bute to lay out the gardens - having seen his work on *Christie Park*. In the last 30-40 years the then owners of Fisherwood have allowed much of the garden to overgrow, hiding all trace of the original landscaping, planting, and terracing. I have been restoring that 'lost garden', mostly using reclaimed materials.





I have been clearing, pruning, clearing ivy, replanting, reseeding large areas, and fitting salvaged railings along the river frontage. A couple of young lads walked past the other day when I was working and said, "*It looks like paradise*".

The work has included rebuilding one bridge over the burn, restoring a second, and I am planning a third, 12m bridge, to replace one last shown on the 1934 Ordnance Survey map.

To undertake the significant work on the garden I have been hosting a number of young people from the EU, one or two at a time, who help in the house and garden in return for board. This has been a great experience from both sides.

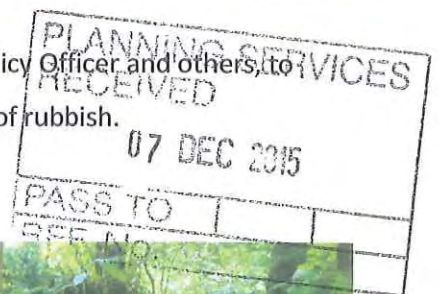


Additionally I have been working with Janice Winder, WDC's Partnership and Policy Officer and others, to solve issues of anti-social behaviour by local youths, and to clear Fisher's Wood of rubbish.

#### 4. Trees

There is no TPO affecting the site. No trees were felled, or will be felled, in relation to this Application.

However there are many substantial and magnificent oak trees on the site that will be preserved. I have been working to remove ivy and fell adjacent sycamore and ash trees to allow light into the garden. I have cleared many of the rhododendrons.



The wild-seeded ash and sycamores that have been felled have been use to form steps and path edges.



## 5. Amenity of Neighbouring Property

Given the location of Fisherwood House there is only one neighbouring property. Referring to the attached Boundary Plan it can be seen that the outbuilding is tucked away from both dwellings. There is no vehicular access or adjacent parking to the outbuilding. Any related footfall is entirely on my property and does not infringe any privacy to the neighbouring property.

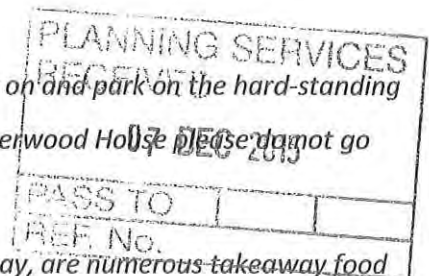
By a quirk of the site division the neighbour's back door, indicated by a red arrow on the attached Boundary Plan does open onto my driveway. But any use of that entrance is entirely an infringement of my privacy.

To address specifically any infringement by footfall to the outbuilding:

- When I give directions to guests I state, *"My front door is on the furthest side from the road. Please do not go to the first door behind the picket fence and disturb my neighbours".*
- Most guests arrive by public transport.
- Those that do arrive by car are asked to park on the hard standing at the southern end of the driveway, where there is ample parking - see attached Parking Plan. (There is room for 4-6 cars. I park outside of my front door.)

Two relevant extracts from the Guest Guide that I provide for guests:

- *"PARKING YOUR CAR - When coming in the gate please go straight on and park on the hard-standing at end of the driveway. (Although it is possible to drive around Fisherwood House please do not go around the rear of the property.)"*
- *"TAKEAWAY FOOD - On Balloch Road, only a few minutes' walk away, are numerous takeaway food outlets. (I would prefer that you do not use home delivery as they do not know the house and are likely to go to the first door and call at my neighbours.)"*



There is a maximum of two guests in the outbuilding, and a minimum stay of two nights. Check in is 14.00 and check-out is 11.00 so there are no arrivals or departures 'out of hours'. Guests do not arrive or leave at unsocial hours, or create noise and disturbance.

I meet most guests off the train and walk them to the outbuilding, mainly as a welcome from a good host, but also to avoid any disturbance to my neighbours.

The use of the outbuilding as rental accommodation is in no way detrimental to the amenity of the neighbour's house.

By far, most of the people visiting my home are my family, friends, or volunteers, who stay in the house.

Therefore guests in the outbuilding account for little of the footfall and do not impact on the amenity of my neighbour.

The only other neighbour is the *Vale of Leven Angling Club* at the far end of Fishers Wood where the Application can have no impact. The site is located in a tourist area with many B&Bs.



## 6. Changing Nature of Holiday Rental Accommodation

I believe that it would be useful to explore what is currently happening in the short-term holiday accommodation sector.

The Enforcement Notice states, *"...the outbuilding has been used for separate residential accommodation, as advertised by its advertising as holiday let accommodation on TripAdvisor. This is not a purpose which could reasonably be*



*considered to be ancillary to the domestic enjoyment of the main house, and is therefore a material change of use of the outbuilding".*

Airbnb and related sites encourage those who may not have taken a trip using hotels to book and use a new source of accommodation - there is more of an engagement between hosts and guests.

In Glasgow, during the Commonwealth Games, there was a link on the front page of the official Games website to Airbnb. Most of the listings during the Games were for entire properties and it can reasonably be assumed that no Planning Permission for Change of Use was sought in most cases.

A further press quote:

*LONDON will open its doors to home and room rental apps such as Airbnb and OneFineStay as part of the government's move to quash outdated laws that ban short-term rentals in the capital.*

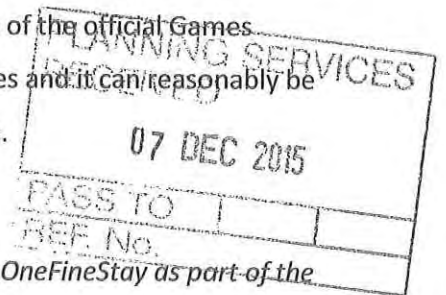
*Communities secretary Eric Pickles has outlined reforms to often-ignored legislation dating back to the 1970s that forces Londoners wishing to rent out their homes for less than three months to apply for planning permission from the council or risk up to a £20 000 fine.*

*"The internet is changing the way we work and live, and the law needs to catch up. We have already reformed the rules on renting out your unused parking spaces, now we want to do the same regarding renting out your home for a short period," said Pickles.*

*"It's time to change the outdated, impractical and restrictive laws from the 1970s, open up London's homes to visitors and allow Londoners to make some extra cash," added Pickles.*

The outbuilding is within the curtilage of my dwelling and can be part of a B&B, which normally requires no Planning Permission - even if marketed through Airbnb or Holiday Lettings. The disturbance of running a B&B would be much greater, including anti-social hours, spontaneous callers, and more vehicles.

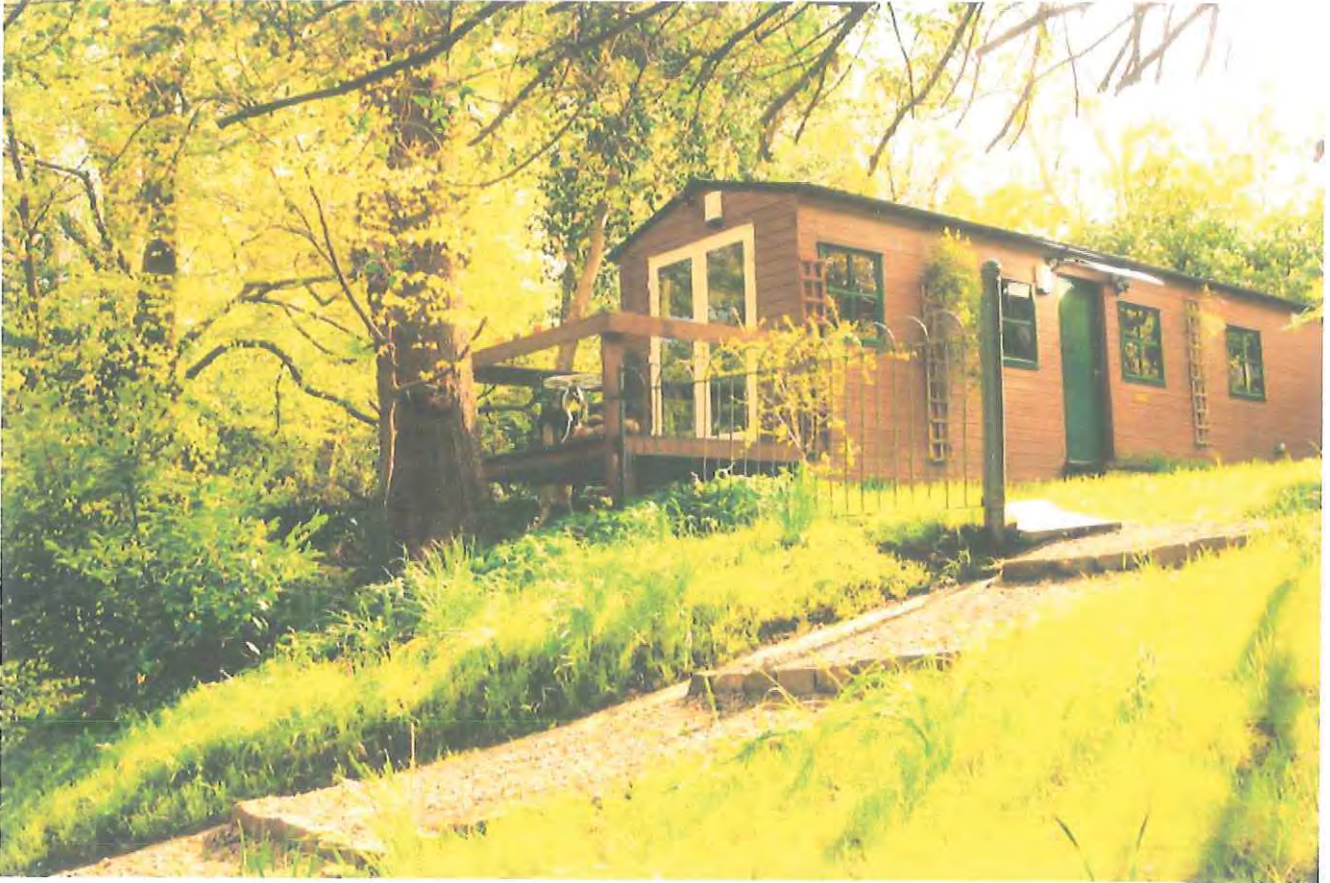
So whilst I accept that a retrospective Application is appropriate in this case I note that there are over 300 listings in the Loch Lomond area, many of which are for full use of separate buildings.





## 7. Economic Benefit to the Area

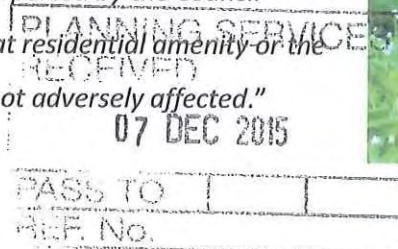
I note that the Planning Department encompasses 'Economic Regeneration'. My letting of the outbuilding is bringing visitors into the area who spend money in local businesses. You'll see from my excellent reviews in a small way, I am boosting the local economy and creating a good impression of the area. One guest recently used the serene location overlooking the river, to propose marriage, and was accepted!



My letting of the outbuilding is bringing visitors into the area who spend money locally. I provide a Guest Guide that focuses on small, locally-owned, businesses. In a small way, I am boosting the local economy and creating a good impression of the area.

This Application supports the **West Dunbartonshire Local Development Plan (Proposed Plan) Policy LE 7**

**'Business Development in Mixed Use or Residential Areas':** *"Proposals for business development, within residential areas or in mixed use schemes will be supported by the Council where it is satisfied that residential amenity or the surrounding uses are not adversely affected."*



## REPRESENTATION TO THE REVIEW FROM THE INTERESTED PARTY

DC15/137



# Jain, Neil & Ruddy Solicitors

**PARTNERS:**      **TERENCE D. RUDDY**  
                         **PRAVIN JAIN**

**1869 GREAT WESTERN ROAD**  
**ANNIESLAND**  
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**(DX 512214 GLASGOW-**  
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**FAX: 0141-950-4673**

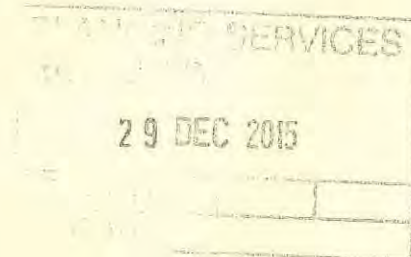
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Our Ref: PJ/VC  
Your Ref: LRB/MISC./IP

22<sup>nd</sup> December 2015

**Fax to: 01389-737-870 and Email to: [craig.stewart@west-dunbarton.gov.uk](mailto:craig.stewart@west-dunbarton.gov.uk) with  
Hard Copy to Follow**

West Dunbartonshire Council  
Development Management  
2<sup>nd</sup> Floor  
Aurora House  
3 Aurora Avenue  
Clydebank  
G81 1BF



Dear Sirs,

**Our Client: Alan Dow – Fisherwood House, Lomond Road, Alexandria, G83 8SL**  
**Planning Application by Mr Michael Mason**  
**Application Number: DC15/137**

We refer to your letter of 15<sup>th</sup> December 2015 notifying us that the above named Applicant has submitted an application for a review of the previous refusal of planning permission.

We continue to act on behalf of Mr Dow who has asked us to lodge further representations after having considered the nature of the application for review.

The first thing we would ask is that the objections initially submitted and dated 14<sup>th</sup> July 2015 still are relied upon and remain relevant. It is our position that there is nothing of any significance which could constitute new material justifying a successful review of the refusal to grant retrospective planning permission.



ALSO AT THE TOWN HOUSE, 12 SANDYFORD PLACE, SAUCHIEHALL STREET,  
GLASGOW G3 7NB  
Tel: 0141-221-8778 Fax: 0141-221-8338



In many ways Mr Mason continues to misrepresent the position with regards to the boundaries. By way of example, at Appendix A (paragraph 5) he makes reference to our client being granted a "temporary" right of access. That is wholly incorrect. As can be seen from the Title Deeds previously submitted, our client enjoys a servitude right of access which is not temporary. We can confirm that by way of background, our client did not initially have any objections to the use of a porta cabin being used as a home office. It was to cover the use by one member of staff along with Mr Mason, to be used during working hours.

With regards to the comments contained within Appendix B, we respectfully submit that it is irrelevant what two planning officers may have said prior to a formal consideration of the application. Ultimately the decision as to whether to grant retrospective planning required to go through the proper process and no doubt it is a matter for West Dunbartonshire Council to consider the impact of the assertions made by Mr Mason regarding some apparent untoward behaviour on the planning officer's part. In many respects this appears to be a material basis of Mr Mason's discontent with the decision to refuse his initial application.

It should be noted that despite an enforcement notice being served, and planning permission being refused, Mr Mason continues to advertise the outbuilding as a holiday let.

It should also be noted the avoidance of any doubt, the driveway immediately surrounding both houses is jointly owned by both parties and therefore both parties have an equal right to use the pathway, not just Mr Mason.

We are also slightly concerned at the undertone of the application for review with regards to disturbance to our client. It has been suggested that the current use of the main dwellinghouse as a bed and breakfast and the layout of the property has the potential of causing more disturbance to our client than the proposed use of the outbuilding. However, it is submitted that is irrelevant and almost acknowledges that the outbuilding and the proposed use thereof, is capable of causing some disturbance to the amenity of our client's property, which would add to any existing disturbance.

We are of the view that the amenity of our client's property will be significantly and substantially damaged as a consequence of the proposed use, which it should be noted, continues to be used in contravention of the enforcement notice and refusal of planning.

We therefore would invite that the application be refused once again.

Yours faithfully,

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a horizontal stroke extending to the right.



FURTHER RESPONSE BY THE APPLICANT TO THE REPRESENTATION BY  
THE INTERESTED PARTY

DC15/137

## Development at Fisherwood House, Balloch – Rebuttal of Neighbour’s Comments

It is strange that there are so many words regarding a simple planning issue, but the Applicant acknowledges that many of the words are his... There is a summary at the end of this document.

The Applicant had not previously addressed Mr Dow’s points in the letters from his agent dated 14 July 2015 and 22 December 2015 respectively as they mostly refer to what seems to be a dispute between neighbours, which is clearly outwith any consideration for Planning Permission – but given the reason for refusal it is important to address the neighbour’s points.

As set out in statute the Planning Process cannot consider:

- Loss of view
- Property values
- Personal disagreements
- Boundary disputes, and title deed issues

Many of Mr Dow’s comments fall into these categories.

The current Application refers only to “(Retrospective) Change of Use to business”. There is no question that the Cottage must cease use as accommodation or indeed for business use as an office – this right is in place as a result of the 10-year rule. Whether the Application is granted or not there will be no change to the footfall to the Cottage.

The Applicant respectfully suggests, based on the correspondence, that Mr Dow and his agent may believe they are responding to a Planning Application for the building, as would be suggested by the title of their letter. This is not the case and many of the comments are irrelevant to the current ‘(Retrospective) Application for Change of Use to business’.

Since the Cottage was sited in 1999, and prior to the current Planning Application, Planning Officers have made several site visits, notably Stewart MacCallum in 2003 and Lorna Ramsey in 2008, and both considered that “no action was required”, and confirmed this by letter.

More recently however, the Planning Department formed the opinion that the advertising of the outbuilding on sites such as Airbnb constituted ‘Business Use’ and issued an Enforcement Notice to desist such use. (The Applicant has referred to the position of Airbnb and ‘business use’ in previous missives).

The Planning Department acknowledge, in the Enforcement Notice dated 9 April 2015, that the Applicant must either:

- “Cease use of the building as a separate dwelling for holiday accommodation, and the renting out of the building to others for such use”
- “Either return the use of the building to domestic purposes ancillary to the main house, {or alternatively remove the building from the site}”.

As acknowledged by the Planning Department, “ancillary to the main house” includes the applicant having friends staying in the Cottage, as often occurs.

A refusal of Planning Permission will not cause the removal of the building, its use as accommodation, or the number of people on the Applicant’s property.

Planning permission was ‘granted’, then refused only on the basis that the Cottage, “*detracts from the privacy and amenity of the adjacent house*”. Therefore, in this note the Applicant has addressed every point from Mr Dow’s agent’s somewhat muddled correspondence (confusing links between unrelated points) fully below, firstly in the letter dated 14 July 2015:



## 1. “Wholly Inaccurate Plan” and “Distance from Mr Dow’s back door”

### “Wholly Inaccurate Plan”

The document referred to as “wholly inaccurate” is a site location plan to provide a broad view of the site within the locale – using the software provided by the Planning Department as part of the application process that does not allow for detail. It is not intended to show detail on the site, merely where it is. As acknowledged by the letter from Mr Dow’s agent other plans supplied by the Applicant do show the exact boundaries and *pro-indiviso* ownership.

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

### “Distance from Mr Dow’s back door”

Far from being, “no more than 18 feet” (5.5m) the nearest point to the Cottage is 9.3m (30’) from Mr Dow’s back door (a corner completely screened by trees), and the door of the Cottage some 13.3m (44’) away.

The small window in Mr Dow’s kitchen and in the adjacent back door face south – the Cottage is to the east. The Cottage is not “clearly visible from inside” - unless Mr Dow walks out of his back door, and then it is screened by trees.

THE APPLICANT SUBMITS THIS IS NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

## 2. “Pro-indiviso use of path” and “Loss of Applicant’s Privacy”

### “Pro-indiviso use of path”

The Applicant notes that title deed issues are not for consideration in planning. However the Applicant fully understands, and in no way disputes, the terms of the title deeds, clearly including Mr Dow’s right of “unfettered access to his back door”.

As described in the Application for Local Review by far the greatest footfall along the section of driveway near Mr Dow’s back door is from the Applicant and houseguests that are helping to restore the garden. The guest’s walking along this section of the driveway do not infringe Mr Dow’s privacy.

Mr Dow has never performed any upkeep or maintenance of any part of the driveway so suggestions of Mr Dow’s concern over “upkeep” are at best, irrelevant. (Apart from Mr Dow filling in a pothole on the north section with loose stones that the Applicant had to dig out and repair with tarmac). The Applicant recently renewed sections of tarmac along the driveway on the east and south side.

The photos show the Applicant’s friends preparing the driveway for new tarmac where Mr Dow attempted a repair by filling in a pothole with stones:



TITLE DEED ISSUE - NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”

### “Loss of Applicant’s Privacy”

Due to the position of Mr Dow’s back door there is clearly a loss of privacy to the Applicant but this is not relevant to the Planning Application. (The Applicant hopes that Mr Dow and his agent are no longer “astounded” that the Applicant finds the position of the door as causing a loss of privacy, albeit that the Applicant accepts that Mr Dow has an unfettered right to use the door.)

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

3. **“Privacy and Safety of Mr Dow”, “Risk of break-ins will automatically increase” (??), “Callers at door”**

**“Privacy and Safety of Mr Dow”**

Far from an increased risk having an extra pair of eyes on the property increases security.

THE APPLICANT SUBMITS THIS IS NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”

**“Risk of break-ins will automatically increase” ??**

Any risk of break-ins would most likely come from intruders entering via the river path or adjacent Fisher’s Wood. Youths would often enter the garden before the Applicant secured and maintains the site boundary along the river frontage including, with his consent, Mr Dow’s own section of 31.4m (103’) of river frontage, the Applicants 38.2m (125’) section with: railings to replace the original, green chain-link fencing, and a 72m (236’) ‘dead hedge’ through the woods. Point 8 also refers.

Mr Dow has never performed any upkeep or maintenance of any part of the fencing.

Additionally, the Applicant has installed, and fully maintains, lighting along the whole length of the driveway on the west side (on during hours of darkness) that benefits both properties, and around the south and east side of the house and garden. Mr Dow has no functioning outside lights along the north side or at his parking area by the two garages (one is the Applicants) which suggests Mr Dow is not concerned with security.

It is hard for the Applicant to comment on the suggestion that guests are potential housebreakers....???

COMPLETELY IRRELEVANT TO PLANNING, AND REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

**“Historically Mr Dow gets disturbed by guests who knock looking for the applicant”**

The nature of the non-standard layout of Fisherwood as two semi-detached homes often causes callers to knock at the wrong door – on an equal basis. The Applicant has fitted neat signage for the post and deliveries.

Any that do call at Mr Dow’s are not guests, but most likely to be visitors unfamiliar with the house. The Applicant gets an equal number of callers looking for Mr Dow.

In relation to guests they are all contacted by email prior to arrival with clear instructions. When given directions to guests it is stated, *“My front door is on the furthest side from the road. Please do not go to the first door behind the picket fence and disturb my neighbours”*. Guests that arrive by train are asked to text when they are on their way and then met on the platform. Guests with cars are asked to provide an ETA and as soon as they pull into the Applicant’s driveway they are met.

The Applicant accepts the conditions attached to the original ‘approval’, notably for the erection of clear signage to avoid any possibility of disturbance. The layout of the driveway allows for unambiguous signage to be included to avoid any confusion.

In any event, given the clear written instructions to guests the Applicant suggests that there have been very few such occurrences involving guests over the 16-17 years the Cottage has existed. There are far more equal, and regular, occurrences of couriers, delivery drivers, and tradespeople going to the wrong door of both houses.

THE APPLICANT SUBMITS THIS IS NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

4. **“Siting of an outbuilding within the curtilage of a Listed Building”**

The Cottage has been in existence for 16-17 years, well over the 10 years, and this Application is not concerned with any such application, but with a ‘Change of Use to business’.

COMPLETELY IRRELEVANT TO THIS APPLICATION, AND REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.



## 5. **“Prohibition on title deeds”, “Continued use after Enforcement Notice”**

### **“Prohibition on title deeds”**

The Applicant is surprised that Mr Dow’s agent seems unaware that title deed issues are excluded from the planning process and, more importantly, of the *‘Title Conditions (Scotland) Act 2003 and the Abolition of Feudal Tenure Etc. (Scotland) Act 2000’*. At 28th November 2004 many burdens in existing titles ceased to be enforceable. Additionally, from the Act, the Applicant refers to *‘Extinction and Variation of Burdens’*: *“Negative Prescription: If a burden is contravened without challenge for a period of five years it will be extinguished to the extent of the breach.”*

COMPLETELY IRRELEVANT TO PLANNING, AND TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

### **“Continued use after Enforcement Notice”**

Following the Applicant’s representation to the Planning Department the Council agreed to extend the enforcement notice served on the property. The Council noted that it has the power to make such variations under the terms of Section 129(1)(b) of the *‘Town and Country Planning (Scotland) Act 1997’*.

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

## 6. **“Use since 1999”, “No foundations” (????)**

### **“Use since 1999” (??)**

There is no point of dispute here. From his letter both Mr Dow and the Applicant agree that the outbuilding has been used as an office and rental accommodation since 1999.

NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

### **“No foundations”**

It is difficult for the Applicant to address this point in this context without appearing flippant regarding ‘no foundation’....

But, specifically relating to physical foundations, of course the building has appropriate foundations, and is sited on ground entirely belonging to the Applicant.

COMPLETELY IRRELEVANT TO PLANNING, AND TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

## 7. **“Correspondence from Planning Department in 2003 and 2008”**

This relates to private communication between the Applicant and the Planning Department but have been alluded to in the Request for Local Review. They relate to the site visits by Stewart MacCallum (2003) and Lorna Ramsey (2008) confirming that the Planning Department considered no action was required in respect to the outbuilding.

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

## 8. **“Adverse effect upon the value of Mr Dow’s property”**

NOT A CONSIDERATION FOR PLANNING.

Despite being irrelevant for consideration in the planning process, the Applicant feels it would be useful to list just some of the improvements and maintenance undertaken by the Applicant of benefit to both properties, which, in the Applicant’s opinion adds significantly to the value of Mr Dow’s property. Except where stated all materials and labour have been entirely provided by the Applicant.

The work undertaken by the Applicant to mutual benefit includes, but is not restricted to:

1. Outside Lighting: Installation and ongoing maintenance of lighting at: the top of the driveway, along the whole length of the driveway on the west side (on during hours of darkness) that benefits both properties from a safety and security point of view, around the south and east side of the house (including adjacent Mr Dow’s back door), and in the garden leading down to the river to maintain safety and security. All the lighting is connected to the Applicant’s supply.

2. Widening the entranceway, and installation and ongoing maintenance of a new gate and fencing at the entrance. (Mr Dow made a financial contribution to the materials only).
3. Ongoing repairs and maintenance of the tarmac of the driveway. (Mr Dow made a financial contribution to the materials only on one occasion). The Applicant suggests that it is Mr Dow's heavy van that causes most of the damage to the driveway at the entrance.
4. Tree and hedge trimming, including, at the request of Mr Dow, significantly pruning the hedge along the west boundary to provide more light in summer evenings to Mr Dow's garden. This required a weekend hire of a large cherry picker to which Mr Dow made no financial contribution.
5. Planting, weeding, and ongoing maintenance of grass and shrubs along the section of driveway in front of Mr Dow's property.
6. Assistance with the timber treatment of the fence around Mr Dow's front garden.
7. Repairs and ongoing maintenance of a 16.2m (53') section of Mr Dow's railings adjacent Lomond Bridge to secure the garden for both properties.
8. Installation and ongoing maintenance of a new chain link fence along a 15.2m (50') section of Mr Dow's garden to secure the garden for both properties (Mr Dow made a token contribution of £100 towards materials only). This was a common access point for youths to enter the property and find a quiet place to drink.
9. Installation and ongoing maintenance of 38.2m (125') of railing and fencing along the Applicant's section of the river frontage to secure the garden for both properties.
10. Creation and ongoing maintenance of a 72m (236') 'dead hedge' on the Applicant's southern boundary with Fisher's Wood to secure the garden for both properties. This was a common access point for youths to enter the property.
11. Creation and ongoing maintenance of a 10m (33') 'dead hedge' and railings between the two properties adjacent the river path.
12. The installation of a new quality 4m (12') fence along the east side of the driveway at the roadway to replace an inappropriate, tatty, and broken fence installed by Mr Dow and that is of benefit only to Mr Dow. (Mr Dow made a contribution towards materials only).
13. (The above six points represent 155.6m (510') of new fencing and hedging plus maintenance of a further 72m (236') of existing hedging on the west boundary – a total of 227.6m (747') fences/hedging maintained by the Applicant for the benefit of security to both properties. The Applicant maintains the overall boundary on three sides and WDC on the fourth, road side).
14. The restoration and ongoing maintenance of the Applicant's garden, which enhances the surroundings of both houses.
15. Clearing of leaves and ongoing maintenance of all the common gutters, shared valley gutters, and at the same time, due to the nature of the house, many of Mr Dow's own gutters.
16. Leaf blowing all areas of the driveway (except the northerly section), including in front of the garages, as needed during the year on an ongoing basis.
17. Installation and ongoing maintenance of a land drain at the garages to prevent flooding.
18. Installation and ongoing maintenance of lighting in the Wash House, connected to the Applicants supply.
19. Removal of saplings and repointing of the wash house chimney.
20. Replacement and insulation of sections of the lead pipe in the Wash House that supply only Mr Dow's kitchen, including very recently repairing a new leak.
21. Repair of the gutter at the Wash House smashed by workers on Mr Dow's roof.
22. Ongoing maintenance of the Wash House, inside and out.
23. Clearing of leaves and moss from both garage roofs on an ongoing basis.
24. Painting of the soffit on both garages.



25. Almost daily picking up litter at the front gate and in the garden along the river frontage. (Mr Dow's garden adjacent the river is full of unsightly rubbish that has accumulated over many years).
26. Working with the police, WDC, and other agencies on a pro-active ongoing basis to address the significant anti-social problem with drunken youths congregating on the river path and in Fisher's wood.

The Applicant cannot recall a single occasion in the last 17 years where Mr Dow has undertaken or commissioned any work of mutual benefit, or to achieve his obligations as pro-indiviso owner of the relevant areas. (There was some outside painting and renewal of the garage roof by contractors in around 2002 that was mutually commissioned and the costs shared).

COMPLETELY IRRELEVANT PLANNING, AND TO REASON FOR REFUSAL: "detracts from the privacy and amenity of the adjacent house".

9. **"Contrary to [West Dunbartonshire] Local Plan Policy LE7", "Larger benefit of site division", "Guests passing by Mr Dow's house"**

**"Contrary to [West Dunbartonshire] Local Plan Policy LE7"**

The Policy states:

*Business Development in Mixed Use or Residential Areas.*

*Proposals for business development, within residential areas or in mixed use schemes will be supported by the Council where it is satisfied that residential amenity or the surrounding uses are not adversely affected. The following criteria will be used in assessing such proposals:*

- *the effect on residents and adjacent uses in terms of noise, vibration, emissions, traffic, parking, storage of materials, hours of working or other adverse impacts;*
- *the cumulative effect of any impacts;*
- *access to the business use: shared access to stand alone business premises will be not be favoured and the cumulative traffic impact of the residential and business elements of an area will be taken into consideration;*

*Reasoned Justification Small firms are recognized in SPP 2 as making an important contribution to the economy. It is considered start-up firms should be encouraged and positive policies used to ensure suitable locations are used for their operation. SPP 2 requires that development plan policies should recognize such businesses where low-impact industry, business and service uses can operate in keeping with housing. Policy LE 7 sets out the criteria for the consideration of small scale business operations within mixed-use or residential areas indicating the requirements such uses need to meet to ensure there are no adverse impacts on the surrounding environment.*

Any vehicular access to the Cottage by guests is not on any "shared access" but along the driveway - fully owned by the Applicant. Therefore, the Applicant proposes that given the Application is not contrary to the three stated criteria that WDC should actually support the development under the terms of Policy LE7 as the Cottage is "as making an important contribution to the economy".

Despite the foregoing the reference to LE7 misses an important point, the 'business use' use is actually residential in nature.

THE APPLICANT SUBMITS THIS IS NOT RELEVANT TO REASON FOR REFUSAL: "detracts from the privacy and amenity of the adjacent house"

**"Larger benefit of Site Division"**

Mr Dow's agent has clearly misunderstood the division of the properties in the 1960s. The owner of the Applicant's home sold the property now occupied by Mr Dow, and in so doing retained the 'larger benefit' for the Applicant's home, notably: the access all the way round very close to the public rooms in Mr Dow's home, the Applicant's garage and workshop being located in Mr Dow's back garden, immediately outside main public rooms, and retention of the larger part of the garden – as can be seen from the Boundary Plan / title deeds. So, the actual situation is far from the stated, and false, "the larger benefit being acknowledged [for Mr Dow] by the Applicant". No.

COMPLETELY IRRELEVANT TO PLANNING, AND TO REASON FOR REFUSAL: "detracts from the privacy and amenity of the adjacent house".

**“Guests passing by Mr Dow’s house”**

The majority of the footfall to the Applicant’s home is: the Applicant, family, friends, tradespeople, business colleagues, acquaintances, Couchsurfers, volunteers staying to work in the garden, or delivery drivers... The guests account for very little of the footfall.

THE APPLICANT SUBMITS THIS IS NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”

**Points from Mr Dow’s agent’s letter dated 22 December**

- **“Right of Access of portion of the driveway adjacent the road”**

The Applicant granted Mr Dow a right of access over a small portion of his driveway leading up to the road, without payment, in the spirit of goodwill. (A condition of this was joint maintenance – an obligation Mr Dow has never met any form. The Applicant keeps the driveway free of litter (almost daily), clears the many leaves, sweeps and pressure washes as far as the roadway, has planted shrubs, fitted an attractive fence, gate, and signage, maintains, and annually treats the timber of the gate and fence.

COMPLETELY IRRELEVANT TO PLANNING, AND REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

- **“Mr Dow did not have any objection to the siting of the building and use as an office for business purposes”.**

The Applicant concurs!

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

- **“Previous visits and communication with Planning officers”**

The Applicant has never suggested, does not suggest, nor believes that there was, “untoward behaviour” by Planning Officers – these are words from Mr Dow’s agent.

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

- **“Continued Use despite Enforcement Notice and Refusal of Planning Permission”**

As covered in Point 5 above, the Planning Department granted an extension to the Enforcement Notice, under the terms of Section 129(1)(b) of the ‘*Town and Country Planning (Scotland) Act 1997*’.

The Applicant is surprised that Mr Dow’s agent was unaware that under *Section 43A(8) of ‘The Town and Country Planning (Scotland) Act 1997 (as amended)’* in respect of decisions on Local Developments and ‘*The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008*’. the Applicant has 3 months from the date of refusal to apply for a Local Review – as has been done.

COMPLETELY IRRELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

- **“For the avoidance of doubt of the driveway surrounding both houses is jointly owned”**

NOT TRUE! The main driveway to the west is entirely in the ownership of the Applicant and Mr Dow has no right of any form of access, apart from the above-mentioned grant by the Applicant over the small section immediately adjacent the roadway.

COMPLETELY IRRELEVANT TO PLANNING, AND TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.

- **“Potential use of Applicant’s home as a B&B”**

There is no “acknowledgement” in any of the Applicant’s correspondence that there is any disturbance to Mr Dow, as suggested.

COMPLETELY IRRELEVANT TO PLANNING, AND TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”.



- **“The Amenity of our client’s property will be significantly damaged”**

The Applicant notes the use of “will be” – the ‘business use’ has been ongoing for 16/17 years and there has not been a “significant”, or otherwise, “loss of amenity.” In none of Mr Dow’s agent’s correspondence has there been a single specific example of any actual loss of amenity cited, let alone “significant damage”, despite the Cottage being in use for some 16/17 years

If this comment actually relates to value, this is well covered in Point 8, and is not relevant to planning.

THE APPLICANT SUBMITS THIS IS NOT RELEVANT TO REASON FOR REFUSAL: “detracts from the privacy and amenity of the adjacent house”

## Summary

In summary, the Applicant suggests that none of the points in Mr Dow’s agent’s correspondence specifically refer to the Planning Application ‘(Retrospective) Change of Use to business’. However, the only points from Mr Dow’s agent’s correspondence that could be considered relevant are:

- **“The outbuilding is clearly visible from his [Mr Dow’s] kitchen”.**

The Cottage is not clearly visible from the kitchen – the window faces south and the Cottage is to the east.

- **“Guests passing by Mr Dow’s house”**

The majority of the footfall to the Applicant’s home is: the Applicant, family, friends, tradespeople, business colleagues, acquaintances, Couchsurfers, volunteers staying to work in the garden, postmen, or delivery drivers... The guests account for very little of the footfall.

- **“Historically Mr Dow gets disturbed by guests who knock looking for the applicant”**

This has happened a very few times in 16/17 years and was prior to the system used by the Applicant to inform guests where the Applicant goes to great lengths to ensure that this cannot happen. The Applicant notes Mr Dow’s use of “historically” in his agent’s letter to confirm this point. Callers at either ‘wrong house’ are more likely to be the aforementioned tradespeople, business colleagues, acquaintances, Couchsurfers, volunteers staying to work in the garden, or delivery drivers.

Given that the application for ‘Change of Use to business’ is retrospective and very many guests have stayed in the Cottage over the last 16/17 years there is no evidence cited of actual inconvenience or disturbance in any of Mr Dow’s correspondence where a guest has ever actually caused Mr Dow any issue.

Any impact of the Cottage amounts to a couple of people walking along a path within the curtilage of the Applicant’s home (partly on a *pro-indiviso* path).

REPORT OF HANDLING BY APPOINTED OFFICER AND DECISION  
NOTICE

DC15/137



WEST DUNBARTONSHIRE COUNCIL  
REPORT OF HANDLING (Delegated)

**APP NO:** DC15/137

**CASE OFFICER;** Ms Lorna Ramsey

**ADDRESS/SITE;** 1, Fisherwood House, Lomond Road, Alexandria

**PROPOSAL;** Use of outbuilding as holiday accommodation (retrospective)

**1. Site Description/Development Details**

This application seeks retrospective planning permission for the use of an outbuilding as holiday accommodation at Fisherwood House, Lomond Road, Alexandria. Fisherwood House is a category B listed building built around 1910 in the English Arts and Crafts style. The building is composed of 2 semi-detached dwellings and is understood to have been built as such, although it has the appearance of one large house and the subdivision of the site is not straightforward and involves various shared areas/rights of access. Access to the property is from Lomond Road, which runs along the northern boundary of the site, and the applicant owns the southern-most house, which is located towards the rear of the site relative to the road. To the east the site is bounded by the River Leven, to the west there is a railway line and to the south there is an area of woodland known as Fishers Wood.

The application relates to an outbuilding positioned at the rear of the house, which the applicant has been renting out as holiday accommodation. The outbuilding has been in place since at least 2003, and is a portacabin that has been modified externally with timber cladding, windows and pitched roof to have the appearance of a log cabin. Internally the outbuilding contains a kitchen/living area, bedroom and bathroom. The planning history of the building is explained below.

The applicant seeks to regularise the use of the building for holiday accommodation, and has submitted a supporting statement with their application which states that the outbuilding is rented out to a maximum of two guests at a time with a minimum stay of two nights. Check-in is after 2pm and check-out is by 11am. Most guests arrive by public transport, and those who do arrive by car are asked to park on the existing hardstanding near the south-western corner of the site. A maximum of 2 guests are allowed at any one time, with a minimum stay of 2 nights. The outbuilding is self-contained with kitchen and bathroom facilities which means that guests do not need to go to the house unless they are checking in/out or have enquiries.

**2.Consultations**

West Dunbartonshire Council Roads and Environmental Health Services have no objections to the application.

### **3.Application Publicity**

Dated	Publication	Reason for Advertisement
30 June 2015	Dumbarton and Vale Of Leven Reporter	Neighbour Notification

### **4.Representations**

One representation has been received from a solicitor acting on behalf of the owner/occupier of the house that adjoins the applicant's property. They object to the application on the following grounds:

- Inaccurate information about boundaries, ownership and rights of access included in application;
- The outbuilding is positioned close to the neighbour's back door but is not overlooked by the applicant's own house. The outbuilding therefore affects their property much more than the applicant's;
- Detrimental impact on residential amenity, including privacy and safety as strangers enter the boundary of their property and guests knock on their front and back doors (as the back door is next to the outbuilding and their front door is the first door seen when entering the grounds of the property);
- Increased footfall on shared path at rear of building will have direct impact upon maintenance of their property.
- The outbuilding is not in keeping with the character of the listed building;
- Title deeds for the property prohibit development within the grounds;
- Outbuilding is still being advertised and rented out despite an enforcement notice having been served;
- Although the applicant claims that the outbuilding has been used for the same purpose since 1999, the neighbour only agreed to the outbuilding on the understanding that it would be used as ancillary office space, and the length of time it has been used for holiday lets is disputed;
- Concern relating to the stability of the outbuilding as it has no foundations yet has been used as self-contained accommodation (e.g. it has been joined to the main sewer system).
- Adversely affects value of neighbour's property;
- Application is contrary to local plan policy, in particular policy LE7, due to negative impacts of noise, vibration, emissions, traffic and parking.

### **5.Relevant Policy**

#### West Dunbartonshire Local Plan

H5 – Housing within Existing Residential Area

LE7 – Business Development in Mixed Use or Residential Areas

LE8 – Tourist Industry Development

#### West Dunbartonshire Local Development Plan Proposed Plan

BC3 – Existing Neighbourhoods

GE4 – Tourism Development

### **6. Appraisal**

#### Planning History



The applicant claims that the outbuilding was placed on the site in 1999, and it seems to be accepted by all parties that the building was originally placed there as an office for the applicant's business. However, it ceased to be used for that purpose within a few years, and its subsequent use becomes harder to establish with certainty. This change seems to have occurred gradually, and it is difficult to state precisely when a material change of use occurred, but the evidence available could not support a certificate of lawfulness, and the applicant has therefore sought retrospective planning permission for it.

The outbuilding was first brought to the Council's attention in 2003 when a complaint was received. The paperwork for that complaint (EP03/058) is incomplete as a result of disposal of old paper records, however according to a list of previous occupiers/guests recently provided by the applicant the outbuilding was rented out to a friend for several months during 2003. This was apparently the first time that the building was used as living accommodation. Upon investigation the applicant indicated that the outbuilding was in use as ancillary office/domestic space, although the fact that the building was being rented out seems not to have been made clear. No enforcement action was taken at the time, as officers took the view that the outbuilding was tucked away at the rear of the house, was of acceptable appearance, and had no significant impact upon the character of the listed building. On the basis that the outbuilding was being used only for ancillary domestic purposes it was considered that there was no significant impact upon the amenity of the neighbouring house.

The outbuilding has therefore existed for over 10 years, and as such the structure itself can be regarded as lawful and does not form part of the present application. The current application relates only to the use of the building.

The applicant has explained that after the outbuilding became redundant as a home office, they rented it out as short-term accommodation on and off from 2003. Initially, residents were mainly friends of the applicant and periods of occupation were for a few months at a time but on an intermittent basis, and for much of the time the building seems to have been unoccupied. Whilst such use might have been unauthorised, it was of a temporary nature and it is considered that the authorised use of the building remained as domestic accommodation. However, more recently the nature of the use changed significantly, and the building seems to have been let out more regularly for shorter periods as holiday accommodation.

A complaint about this was received in 2011 (EP11/047) but at the time no clear evidence was found to support the claim that a change of use had arisen, and the applicant indicated that its use remained as domestic accommodation ancillary to the occupation of the house.

However, since that time the use as holiday accommodation evidently intensified, and following a further complaint (EP14/047) it was noted that the property is being advertised as "Fisherwood Cottage" on internet holiday booking site Airbnb, where it is described as a self-contained chalet. The applicant acknowledged that this was the case, but believed that this did not require planning permission because it would count as B&B bedroom which would be permissible under Use Class 9. However, the Planning Service does not accept this view, as the proposal involves a detached



outbuilding being used for self-catering accommodation rather than a bedroom being used for B&B, and cannot reasonably be considered to fall within Class 9. An enforcement notice was served requiring discontinuance of the use, but its taking effect has been deferred pending the outcome of this application.

### Principle of Use

Policy LE8 supports tourism developments subject to there being no adverse impacts on the locality, and policies LE7 and H5 reiterate this requirement. The policies of the emerging LDP are similar in effect. In general, it is preferable that tourism accommodation be situated within the urban area, and the application site, having a relatively large and secluded garden, is considered to be a broadly acceptable location in principle, especially as the structure concerned already exists. Access into the site is acceptable, as is parking. The main issue for consideration is therefore the impact of the use upon the residential amenity of the neighbouring dwellinghouse (which is the only property affected).

### Residential Amenity

The two houses on the site have a relatively secluded/private location but are divided in an unusual manner, with the driveway running all around the building in a loop with each resident apparently having access rights over sections of the other's land. There is therefore no neat division between one neighbour's property and that of the other, and this is at the root of the objection. An increase in the number of persons visiting one of the houses is therefore liable to this case by the fact that the holiday accommodation visitors are unfamiliar with the layout of the site and the subtleties of the ownership division. The objection refers to problems of guests going to the wrong door, etc., which would clearly be a source of annoyance. Whilst rights of access and maintenance responsibilities are not material planning considerations, the use of shared areas by strangers will inevitably erode the privacy of the neighbours, and may reduce their feeling of security. It is therefore considered that despite the relatively small scale of the operation, the use of the outbuilding as holiday let accommodation has significant potential to detract from the amenity of the neighbouring house.

The applicant is aware of these issues, and has provided details of a number of measures which are intended to minimise the impact upon the neighbouring house. There is no actual need for visitors to use the right of access through the neighbour's part of the garden, but some may do so due to unfamiliarity with the site, and both of the neighbour's doors are on elevations which face the access so people coming and going inevitably pass these. The directions provided to guests as part of their booking confirmation tells them which door to use, and the applicant has put up some directional signs within the site to reinforce this. Additionally, some screen fencing was installed behind the neighbour's back door to screen it from the outbuilding and reduce the likelihood of guests going to that door by mistake. However, the screen fence raised problems of its own and the applicant has been asked to remove it. Overall, whilst the applicant has taken steps intended to reduce the impact upon the neighbouring house, these impacts can only be of limited benefit given the relationship between the two houses.

It is understood that the applicant also operates a small-scale bed and breakfast operation from the house (which would not require permission). Some of the



problems arising of the use of the outbuilding are similar to those which may arise from a B&B operation, e.g. the issue of guests being confused about which door to use upon arrival. However, the outbuilding is likely to have a more significant impact upon the neighbour than a B&B use because of the proximity of the outbuilding to the neighbour's back door, where comings and goings from it are more visible to the neighbour and more likely to give rise to disturbance. The fact that the building is self contained also means that it is more likely that visitors may come and go more freely and perhaps later at night than would be the case for a conventional B&B.

#### Access and Parking

While most guests are stated to arrive by public transport, some do arrive by car and there is an existing hardstanding to the side of the house at the end of the driveway with a notional capacity of 4 to 6 cars, where they are encouraged to park. The applicant is understood to park his own car next to his front door, so the separate hardstanding area is mainly used by visitors/chalet guests. Although it is somewhat overgrown and would benefit from being resurfaced and properly delineated, this area is of adequate capacity for its purpose, is away from the neighbour's property, and avoids the need for visitors to drive around the neighbour's side of the building. Access onto the public road is appropriate for the limited additional traffic, and the Roads Service has no objection to the application..

The other concerns raised by the objector such as ownership issues, title deed restrictions, impact on the value of their property and the structural integrity of the building are not material planning considerations and therefore cannot be taken into account in the assessment of the application.

#### Conclusion

Over all, whilst there is some policy support for the provision of additional tourist accommodation within the area, and it is accepted that the applicant has initiated various measures intended to minimise the impact upon the neighbouring house, it is considered that the impact on the neighbour's amenity is unacceptable. The relationship between the two houses and between the outbuilding and the neighbour's house are such that the comings and goings of visitors inevitably give rise to disturbance to the neighbouring property and reduce the privacy of their property in what is otherwise a relatively secluded site. It is therefore considered that the proposal is contrary to Policies LE7 and H5 of the adopted local plan, and BC3 of the emerging LDP.

#### **7. Recommendation**

Refuse retrospective planning permission.

#### **8. Added Value**

N/A

#### **9. Reasons**

- 01. The use of the outbuilding as self-contained living / holiday accommodation for let detracts from the privacy and amenity of the adjacent house, and such use is therefore contrary to Policies LE7 and H5 of the adopted West Dunbartonshire Local Plan 2010,**

**and Policy BC3 of the emerging West Dunbartonshire Local Development Plan.**



Refusal of Planning Consent

**WEST DUNBARTONSHIRE COUNCIL**  
**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS**  
**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT**  
**PROCEDURE) (SCOTLAND) REGULATIONS**

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<u>Proposal</u>	<b>Use of outbuilding as holiday accommodation (retrospective)</b>
<u>Site</u>	1 Fisherwood House Lomond Road Alexandria G83 8SJ
<u>Applicant</u>	Mr Michael Mason
<u>Agent</u>	N/A

<u>Class of Development</u>	Local Development
<u>Decision Type</u>	Delegated

*WEST DUNBARTONSHIRE COUNCIL, AS PLANNING AUTHORITY, IN EXERCISE OF THEIR POWERS UNDER THE ABOVE-MENTIONED ACTS AND ORDERS, AND HAVING CONSIDERED YOUR PROPOSED DEVELOPMENT, THE PLAN(S) DOCQUETTED AS RELATIVE THERETO AND THE PARTICULARS GIVEN IN THE ABOVE APPLICATION, HEREBY:-*

**DECISION: REFUSE PLANNING CONSENT FOR THE REASON(S) CONTAINED IN THE ACCOMPANYING PAPER(S) APART.**

DATED THIS: 9th day of September 2015

EXECUTIVE DIRECTOR OF INFRASTRUCTURE  
AND REGENERATION  
COUNCIL OFFICES,  
CLYDEBANK G81 1BF

SIGNED .....  
for WEST DUNBARTONSHIRE COUNCIL

**Reason** The use of the outbuilding as self-contained living / holiday accommodation for let detracts from the privacy and amenity of the adjacent house, and such use is therefore contrary to Policies LE7 and H5 of the adopted West Dunbartonshire Local Plan 2010, and Policy BC3 of the emerging West Dunbartonshire Local Development Plan.



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
PLANNING ETC. (SCOTLAND) ACT 2006

RIGHTS OF AGGRIEVED APPLICANTS (DELEGATED DECISIONS)

1. If this decision involves a refusal of planning permission or the granting of permission subject to conditions, and if the applicant is aggrieved by this decision, they may seek a review of this decision with the Local Review Body within 3 months of the date of this notice.

The review may be submitted in writing to:

**West Dunbartonshire Council  
Planning Local Review Body  
Council Offices  
Garshake Road  
Dumbarton G82 3PU**

Telephone                      01389 737210

Review forms can be obtained on request from the above address or can be downloaded from the Council's website:

<http://www.west-dunbarton.gov.uk/building-and-planning/planning-permission/application-forms/appeals-and-reviews/>

2. If permission to develop is refused or granted subject to conditions (whether by the Planning Authority or the Scottish Ministers), and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Planning Authority a purchase notice requiring the purchase of his/her interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

PLANNING APPLICATION FORM, PLANS AND SUPPORTING  
INFORMATION

DC15/137





Council Offices Rosebery Place Clydebank G81 1TG

Tel: 01389 738 575

Fax: 01389 738 584

Email: [development.management@west-dunbarton.gov.uk](mailto:development.management@west-dunbarton.gov.uk)

Applications cannot be validated until all necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000119269-001

The online ref number is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the Planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

We strongly recommend that you refer to the help text before you complete this section.

- ☒ Application for Planning Permission (including changes of use and surface mineral working)
- ☐ Application for Planning Permission in Principle
- ☐ Further Application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- ☐ Application for Approval of Matters specified in conditions

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

I have been using an existing building in the grounds of my home as a summerhouse / occasional rental accommodation for some 13 years. Recently I have started marketing the property on holiday letting websites so I am applying retrospectively for change of use to business.  
(The building itself, as self-contained accommodation, has existed for more than 10 years and does not require planning consent for use ancillary to the main house).

Is this a temporary permission? \* ☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \* ☒ Yes ☐ No

Have the works already been started or completed? \*

☐ No ☐ Yes - Started ☒ Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): \*

01/06/99

Please explain why work has taken place in advance of making this application: \*  
(Max 500 characters)

The Planning Department, through discussion, have indicated that renting the building through holiday rental sites is considered as a change of use to business. However, the Planning Department have been aware of the building's use as accommodation since 2003.

## Applicant or Agent Details

Are you an applicant, or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☒ Applicant ☐ Agent

### Applicant Details

Please enter Applicant details

Title: *	<input type="text" value="Mr"/>
Other Title:	<input type="text"/>
First Name: *	<input type="text" value="Michael"/>
Last Name: *	<input type="text" value="Mason"/>
Company/Organisation:	<input type="text"/>
Telephone Number: *	<input type="text" value="01389720802"/>
Extension Number:	<input type="text"/>
Mobile Number:	<input type="text"/>
Fax Number:	<input type="text"/>
Email Address: *	<input type="text"/>

You must enter a Building Name or Number, or both:\*

Building Name:	<input type="text" value="Fisherwood House"/>
Building Number:	<input type="text"/>
Address 1 (Street): *	<input type="text" value="Lomond Road"/>
Address 2:	<input type="text"/>
Town/City: *	<input type="text" value="Balloch"/>
Country: *	<input type="text" value="UK"/>
Postcode: *	<input type="text" value="G83 8SJ"/>

### Site Address Details

Planning Authority:	<input type="text" value="West Dunbartonshire Council"/>
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Full postal address of the site (including postcode where available):

Address 1:	<input type="text" value="1"/>	Address 5:	<input type="text"/>
Address 2:	<input type="text" value="FISHERWOOD HOUSE"/>	Town/City/Settlement:	<input type="text" value="ALEXANDRIA"/>
Address 3:	<input type="text" value="LOMOND ROAD"/>	Post Code:	<input type="text" value="G83 8SJ"/>
Address 4:	<input type="text"/>		

Please identify/describe the location of the site or sites.

Northing	<input type="text" value="681685"/>	Easting	<input type="text" value="239095"/>
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### Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

☒ Yes ☐ No



## Pre-Application Discussion Details

In what format was the feedback given? \*

☒ Meeting ☐ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

Site visit by Stewart McCullum - exact date unknown but estimated as 1 June 2003. Stewart visited and thought no further action was required.

Title:	Mr	Other title:	
First Name:	Stewart	Last Name:	MacCullum
Correspondence Reference Number:	GDC/32/SMCC	Date (dd/mm/yyyy):	01/06/03

In what format was the feedback given? \*

☒ Meeting ☐ Telephone ☒ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

A letter from Stewart McCullum, referring to previous correspondence from him dated 28 October 2003 and 23 January 2004: the letter notes, [having considered the matter] "I therefore consider this matter closed. I trust this information is of use to you".

Title:	Mr	Other title:	
First Name:	Stewart	Last Name:	McCullum
Correspondence Reference Number:	GDC/32/SMCC	Date (dd/mm/yyyy):	14/10/08

In what format was the feedback given? \*

☒ Meeting ☐ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

Site visit by Lorna Ramsay (exact date unknown but assumed to be 1 June). The use of the outbuilding as accommodation was discussed and I referred to Stewart MacCullum's letter of 14 October 2008 noting the matter was closed. In a subsequent telephone call Lorna noted that she has spoken to Stewart and no further action by the Council was needed.

Title:	Please Select One	Other title:	
First Name:	Lorna	Last Name:	Ramsey
Correspondence Reference Number:		Date (dd/mm/yyyy):	01/06/11

In what format was the feedback given? \*

☐ Meeting ☐ Telephone ☒ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

I received a letter asking me to contact the Council to discuss "whether submission of a retrospective application is appropriate"

Title:	Please Select One	Other title:	
First Name:	Lorna	Last Name:	Ramsey
Correspondence Reference Number:	EP14/047	Date (dd/mm/yyyy):	20/10/14

In what format was the feedback given? \*

☐ Meeting ☒ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

Between October 2014 and February 2015 I had several telephone conversations with Lorna Ramsay regarding this matter. Lorna said that the matter would be discussed internally and she would revert.

Title:	Please Select One	Other title:	
First Name:	Lorna	Last Name:	Ramsey
Correspondence Reference Number:		Date (dd/mm/yyyy):	21/10/14

In what format was the feedback given? \*

☐ Meeting ☐ Telephone ☒ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

Despite my offers, and keenness, to meet and discuss the matter an Enforcement Notice was received giving 28 days notice to "cease use of the building ... for holiday accommodation and return the building to purposes ancillary to the main house."

Title:	Mr	Other title:	
First Name:	Keith	Last Name:	Bathgate
Correspondence Reference Number:	LR EP14/047	Date (dd/mm/yyyy):	02/03/15

In what format was the feedback given? \*

☒ Meeting ☐ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)



I met with Keith Bathgate at his offices. A number of options to resolve the matter were discussed and Keith proposed that the best way forward would be a retrospective planning application for Change of use to Business.

Title:	Mr	Other title:	
First Name:	Keith	Last Name:	Bathgate
Correspondence Reference Number:		Date (dd/mm/yyyy):	27/03/15

In what format was the feedback given? \*

☐ Meeting ☐ Telephone ☒ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (Max 500 characters)

Letter from WDC granting an extension to the Enforcement Notice to allow time for a Planning Application to be made.

Title:	Mr	Other title:	
First Name:	Keith	Last Name:	Bathgate
Correspondence Reference Number:	EP14/047	Date (dd/mm/yyyy):	09/04/15

Note 1. A processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area: 2783.00

Please state the measurement type used: ☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: (Max 500 characters)

The site comprises my main home, garden, and driveway.  
The outbuilding is 35 square metres total exterior size. It was variously used as an office / summerhouse, and was rented out to friends and acquaintances, informally and formally since 1999.

## Access and Parking

Are you proposing a new or altered vehicle access to or from a public road? \* ☐ Yes ☒ No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? \* ☐ Yes ☒ No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site? *	<input style="width: 80%;" type="text" value="6"/>
How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the total of existing and any new spaces or a reduced number of spaces)? *	<input style="width: 80%;" type="text" value="6"/>
Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycle spaces).	

### Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \* ☐ Yes ☒ No

---

Do your proposals make provision for sustainable drainage of surface water? (e.g. SUDS arrangements) \* ☐ Yes ☒ No

Note: -

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

---

Are you proposing to connect to the public water supply network? \*

☒ Yes

☐ No, using a private water supply

☐ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

---

### Assessment of Flood Risk

Is the site within an area of known risk of flooding? \* ☐ Yes ☒ No ☐ Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \* ☐ Yes ☒ No ☐ Don't Know

---

### Trees

Are there any trees on or adjacent to the application site? \* ☒ Yes ☐ No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

---

### Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \* ☐ Yes ☒ No

---

If Yes or No, please provide further details:(Max 500 characters)

The outbuilding shares the existing bins with my home.

---

### Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \* ☐ Yes ☒ No



## All Types of Non Housing Development - Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

☐ Yes ☒ No

### Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 \*

☐ Yes ☒ No ☐ Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

### Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

☐ Yes ☒ No

### Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

One Certificate must be completed and submitted along with this application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land ? \*

☒ Yes ☐ No

Is any of the land part of an agricultural holding? \*

☐ Yes ☒ No

### Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

### Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding.

Signed: Mr Michael Mason

On behalf of:

Date: 17/06/2015

☒ Please tick here to certify this Certificate. \*

## Checklist - Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

☐ Yes ☐ No ☒ Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major developments (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

☐ Yes ☐ No ☒ Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

☐ Yes ☐ No ☒ Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

☐ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.



Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. \*

☐ Yes ☒ N/A

A Flood Risk Assessment. \*

☒ Yes ☐ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

☐ Yes ☒ N/A

Drainage/SUDS layout. \*

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan. \*

☐ Yes ☒ N/A

Contaminated Land Assessment. \*

☐ Yes ☒ N/A

Habitat Survey. \*

☐ Yes ☒ N/A

A Processing Agreement \*

☐ Yes ☒ N/A

Other Statements (please specify). (Max 500 characters)

## Declare - For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying plans/drawings and additional information are provided as a part of this application .

Declaration Name: Mr Michael Mason

Declaration Date: 22/06/2015

## Payment Details

Cheque: ,

Created: 22/06/2015 23:51

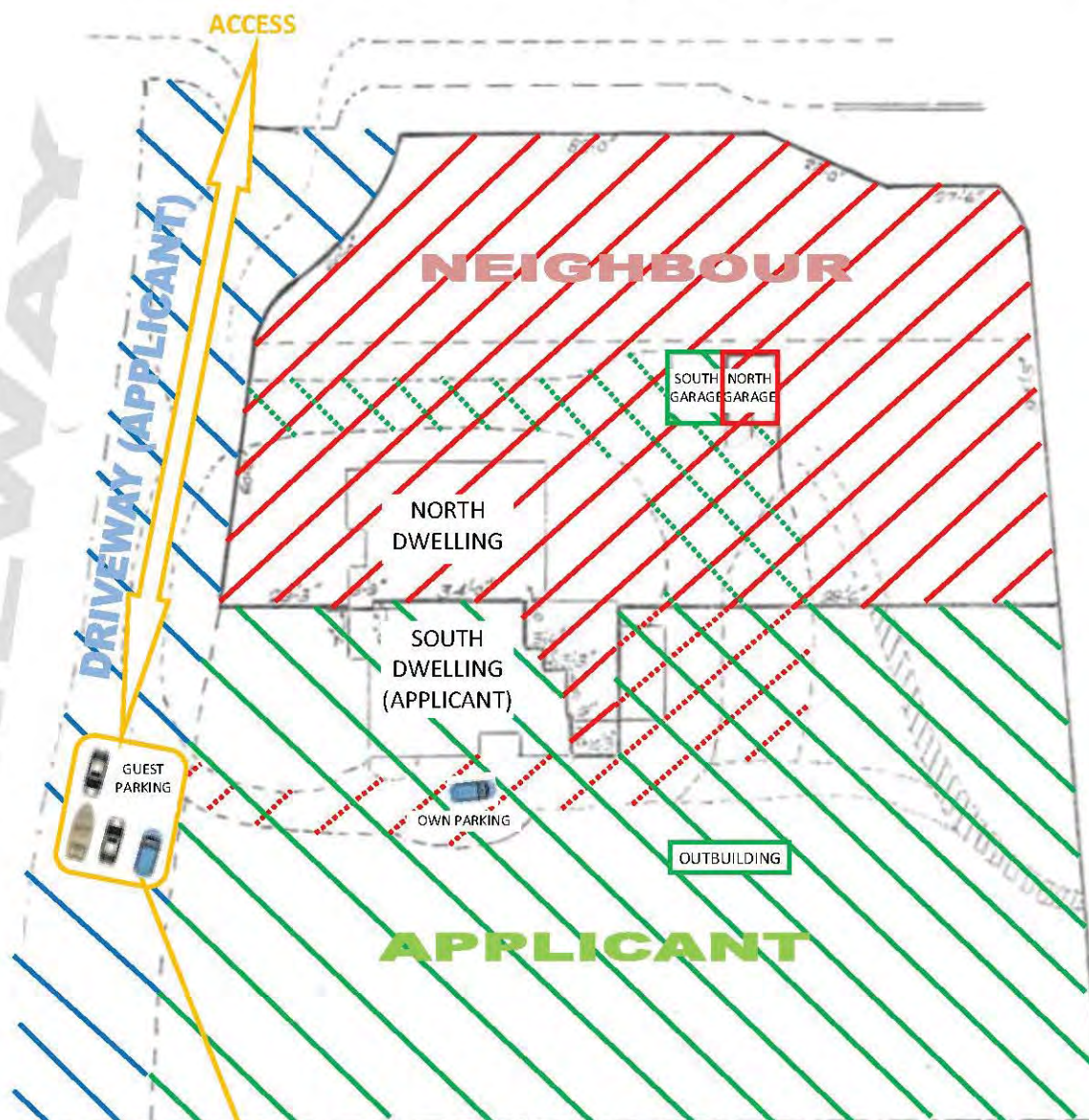
## PARKING PLAN: FISHERWOOD HOUSE, LOMOND ROAD, BALLOCH, G83 8SJ

What I tell the guests when I give them directions:

*"PARKING YOUR CAR - When coming in the gate please go straight on and park on the hard-standing at end of the driveway. (Although it is possible to drive around Fisherwood House please do not go around the rear of the property.)"*



# LOMOND ROAD



EXISTING HARDSTANDING FOR 4-6 CARS  
(GUEST CARS ONLY ACCESS THE PROPERTY  
USING MY DRIVEWAY (BLUE))

# FISHERS WOOD

### KEY:

RED = PROPERTY OF NORTHERLY DWELLING

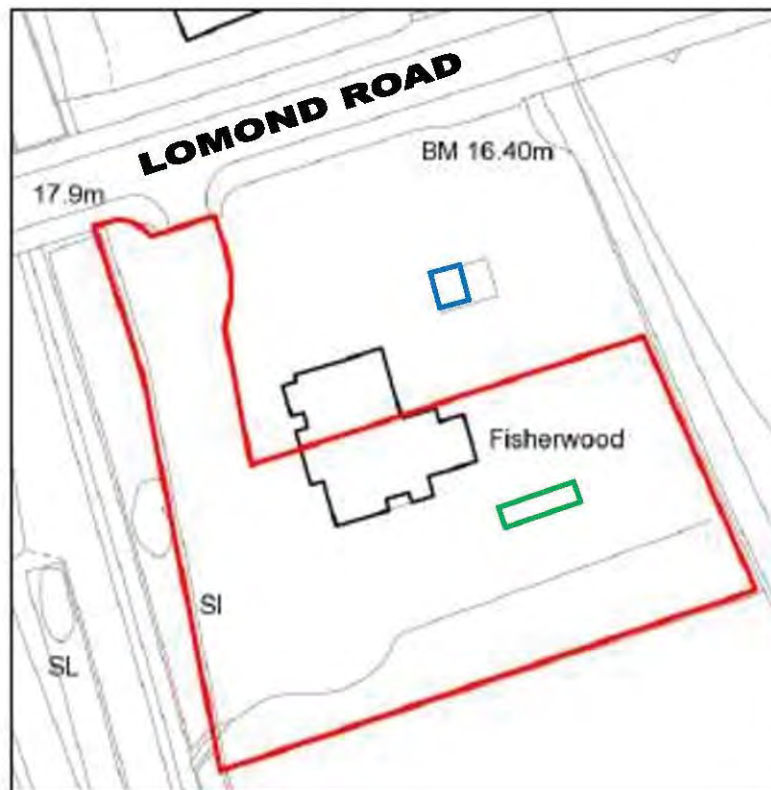
RED DOTTED = NORTHERLY DWELLING RIGHT OF ACCESS




GREEN & BLUE = PROPERTY OF SOUTHERLY DWELLING (APPLICANT)

GREEN DOTTED = SOUTHERLY DWELLING RIGHT OF ACCESS (APPLICANT)



Easting: 239127 - Northing: 681675



-  Application Boundary
-  Other land in Ownership
-  Outbuilding - subject of Application

#### Information

Online Ref:  
000117116  
Date: 14/4/2015

Scale 1:1000 (1Ha)

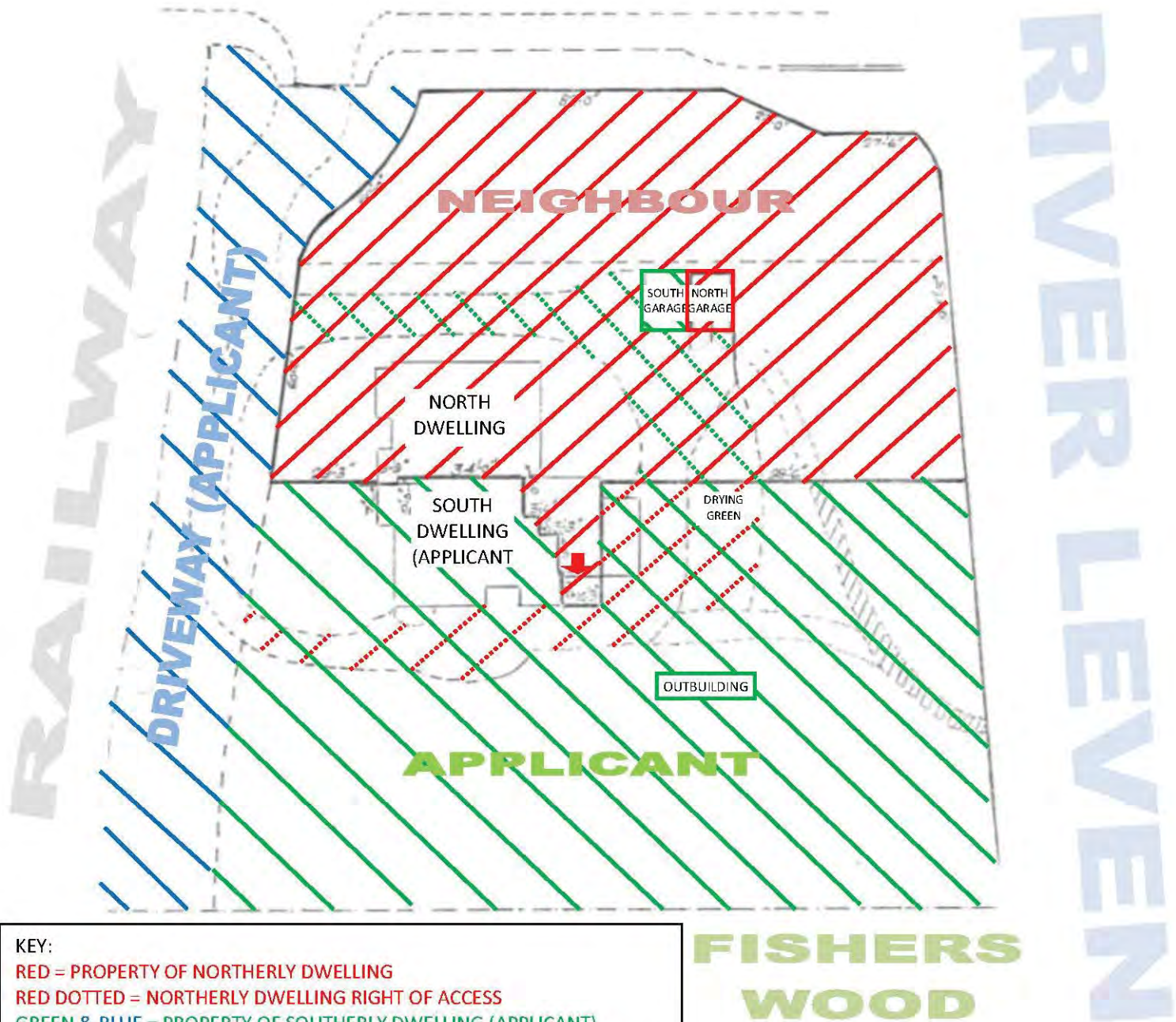


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LOMOND ROAD



KEY:

- RED = PROPERTY OF NORTHERLY DWELLING
- RED DOTTED = NORTHERLY DWELLING RIGHT OF ACCESS
- GREEN & BLUE = PROPERTY OF SOUTHERLY DWELLING (APPLICANT)
- GREEN DOTTED = SOUTHERLY DWELLING RIGHT OF ACCESS (APPLICANT)

**NARRATIVE DESCRIPTION**

Fisherwood House was built in 1902 by J J Burnett in Arts & Crafts Style.

It was commissioned by two parts of the same family who occupied both parts separately. It was built as, and has always been, two separate dwellings.

In around 1960 the northern-most house was sold off by the then owner of the southern-most dwelling. The subsequent ground division was uneven and reflected the desire of the seller to retain as much benefit as possible for the southerly dwelling.

The southern-most dwelling has its garage behind the northerly dwelling and has the right to drive right around the building.

Additionally the southern-most dwelling separately owns the driveway, shown in blue, over which the owners of northerly property have been granted temporary access.

(Fisherwood House used to be the last house in Fisherwood Road until it was 'cast adrift' by the bypass (A811) in 1934.)



## 1. Rationale for Planning Application

Following a meeting with the Planning Department at West Dunbartonshire Council in March 2015 and subsequent correspondence, in response to an Enforcement Notice, it was agreed that a retrospective Planning Application for a Change of Use of an existing Summerhouse / Guest House to 'business' would be an appropriate route to regularize the current situation where I let the building as holiday accommodation.

## 2. History of Fisherwood House

Fisherwood House was built in 1902, by J J Burnett in Arts & Crafts Style.

It was commissioned by the McClintoch family after they saw the work of J J Burnett in the rebuilding of the *Tullichewan Hotel* in 1898 following a fire. The McClintoch's occupied both parts separately; with the father in the northerly dwelling (my neighbours) and the son in the southerly part (that I now occupy).



Fisherwood was built as, and has always been, two separate dwellings, with no internal link.

In around 1960, the northern-most house was sold off by the then owner of the southern-most dwelling. The subsequent ground division was uneven and reflected the desire of the seller to retain as much benefit as possible for the southerly dwelling. (The attached Boundary Plan refers.)

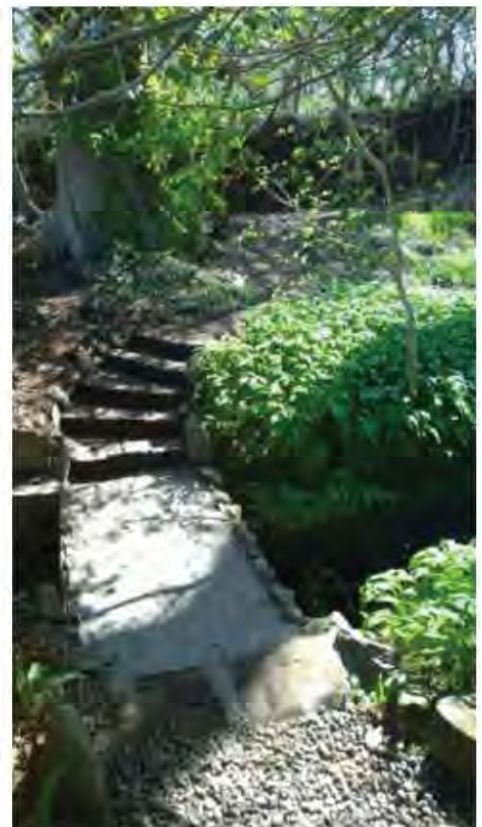
The southern-most dwelling has its garage behind the northerly dwelling and has the right to drive right around the house. The attached Boundary Site Plan refers.

Importantly the southern-most dwelling (myself) separately owns the driveway, shown in blue, over which the owners of northerly property has been granted a temporary right of access over a small portion.

## 3. Restoration of Fisherwood House and Garden

Since purchasing the southerly dwelling of Fisherwood House in February 1999, I have been restoring the interior and exterior of the property.

After the house was completed in 1902 the owners commissioned Neil Leetch, the Landscape Architect from Mount Stuart on the Isle Bute to lay out the gardens - having seen his work on *Christie Park*. In the last 30-40 years the then owners of Fisherwood have allowed much of the garden to overgrow, hiding all trace of the original landscaping, planting, and terracing. I have been restoring that 'lost garden', mostly using reclaimed materials.





I have been clearing, pruning, clearing ivy, replanting, reseeding large areas, and fitting salvaged railings along the river frontage. A couple of young lads walked past the other day when I was working and said, "*It looks like paradise*".

The work has included rebuilding one bridge over the burn, restoring a second, and I am planning a third, 12m bridge, to replace one last shown on the 1934 Ordnance Survey map.

To undertake the significant work on the garden I have been hosting a number of young people from the EU, one or two at a time, who help in the house and garden in return for board. This has been a great experience from both sides.



Additionally I have been working with Janice Winder, WDC's Partnership and Policy Officer and others, to solve issues of anti-social behaviour by local youths, and to clear Fisher's Wood of rubbish.

#### 4. Trees

There is no TPO affecting the site. No trees were felled, or will be felled, in relation to this Application.

However there are many substantial and magnificent oak trees on the site that will be preserved. I have been working to remove ivy and fell adjacent sycamore and ash trees to allow light into the garden. I have cleared many of the rhododendrons.



The wild-seeded ash and sycamores that have been felled have been used to form steps and path edges.



## 5. Amenity of Neighbouring Property

Given the location of Fisherwood House there is only one neighbouring property. Referring to the attached Boundary Plan it can be seen that the outbuilding is tucked away from both dwellings. There is no vehicular access or adjacent parking to the outbuilding. Any related footfall is entirely on my property and does not infringe any privacy to the neighbouring property.

By a quirk of the site division the neighbour's back door, indicated by a red arrow on the attached Boundary Plan does open onto my driveway. But any use of that entrance is entirely an infringement of my privacy.

To address specifically any infringement by footfall to the outbuilding:

- When I give directions to guests I state, *"My front door is on the furthest side from the road. Please do not go to the first door behind the picket fence and disturb my neighbours"*.
- Most guests arrive by public transport.
- Those that do arrive by car are asked to park on the hard standing at the southern end of the driveway, where there is ample parking - see attached Parking Plan. (There is room for 4-6 cars. I park outside of my front door.)

Two relevant extracts from the Guest Guide that I provide for guests:

- *"PARKING YOUR CAR - When coming in the gate please go straight on and park on the hard-standing at end of the driveway. (Although it is possible to drive around Fisherwood House please do not go around the rear of the property.)"*
- *"TAKEAWAY FOOD - On Balloch Road, only a few minutes' walk away, are numerous takeaway food outlets. (I would prefer that you do not use home delivery as they do not know the house and are likely to go to the first door and call at my neighbours.)"*

There is a maximum of two guests in the outbuilding, and a minimum stay of two nights. Check in is 14.00 and check-out is 11.00 so there are no arrivals or departures 'out of hours'. Guests do not arrive or leave at unsocial hours, or create noise and disturbance.

I meet most guests off the train and walk them to the outbuilding, mainly as a welcome from a good host, but also to avoid any disturbance to my neighbours.

The use of the outbuilding as rental accommodation is in no way detrimental to the amenity of the neighbour's house.

By far, most of the people visiting my home are my family, friends, or volunteers, who stay in the house.

Therefore guests in the outbuilding account for little of the footfall and do not impact on the amenity of my neighbour.

The only other neighbour is the *Vale of Leven Angling Club* at the far end of Fishers Wood where the Application can have no impact. The site is located in a tourist area with many B&Bs.



## 6. Changing Nature of Holiday Rental Accommodation

I believe that it would be useful to explore what is currently happening in the short-term holiday accommodation sector.

The Enforcement Notice states, *"...the outbuilding has been used for separate residential accommodation, as advertised by its advertising as holiday let accommodation on TripAdvisor. This is not a purpose which could reasonably be*



*considered to be ancillary to the domestic enjoyment of the main house, and is therefore a material change of use of the outbuilding"*.

Airbnb and related sites encourage those who may not have taken a trip using hotels to book and use a new source of accommodation - there is more of an engagement between hosts and guests.

In Glasgow, during the Commonwealth Games, there was a link on the front page of the official Games website to Airbnb. Most of the listings during the Games were for entire properties and it can reasonably be assumed that no Planning Permission for Change of Use was sought in most cases.

A further press quote:

*LONDON will open its doors to home and room rental apps such as Airbnb and OneFineStay as part of the government's move to quash outdated laws that ban short-term rentals in the capital.*

*Communities secretary Eric Pickles has outlined reforms to often-ignored legislation dating back to the 1970s that forces Londoners wishing to rent out their homes for less than three months to apply for planning permission from the council or risk up to a £20 000 fine.*

*"The internet is changing the way we work and live, and the law needs to catch up. We have already reformed the rules on renting out your unused parking spaces, now we want to do the same regarding renting out your home for a short period," said Pickles.*

*"It's time to change the outdated, impractical and restrictive laws from the 1970s, open up London's homes to visitors and allow Londoners to make some extra cash," added Pickles.*

The outbuilding is within the curtilage of my dwelling and can be part of a B&B, which normally requires no Planning Permission - even if marketed through Airbnb or Holiday Lettings. The disturbance of running a B&B would be much greater, including anti-social hours, spontaneous callers, and more vehicles.

So whilst I accept that a retrospective Application is appropriate in this case I note that there are over 300 listings in the Loch Lomond area, many of which are for full use of separate buildings.



## 7. Economic Benefit to the Area

I note that the Planning Department encompasses 'Economic Regeneration'. My letting of the outbuilding is bringing visitors into the area who spend money in local businesses. You'll see from my excellent reviews in a small way, I am boosting the local economy and creating a good impression of the area. One guest recently used the serene location overlooking the river, to propose marriage, and was accepted!



My letting of the outbuilding is bringing visitors into the area who spend money locally. I provide a Guest Guide that focuses on small, locally-owned, businesses. In a small way, I am boosting the local economy and creating a good impression of the area.

This Application supports the **West Dunbartonshire Local Development Plan (Proposed Plan) Policy LE 7**

**'Business Development in Mixed Use or Residential Areas':** *"Proposals for business development, within residential areas or in mixed use schemes will be supported by the Council where it is satisfied that residential amenity or the surrounding uses are not adversely affected."*





## FISHERWOOD HOUSE RENTAL COTTAGE - CONFORMANCE TO LOCAL PLAN(S)

### West Dunbartonshire Local Plan 2010 Policy H5 - Development within Existing Residential Areas

*The character and amenity of existing residential areas, identified on the Proposals Map, will be safeguarded and where possible enhanced. Development within existing residential areas will be considered against the following criteria:*

- *the need to reflect the character of the surrounding area in terms of scale, density, design and materials;*

[The building does reflect the character of the surrounding area. It consists one small scale timber lodge, screened by trees (no trees were removed to site the Portacabin), and is timber clad and stained brown with a black roof and green window frames.]



- *the requirement to avoid over development which would have an adverse effect on local amenity, access and parking or would be out of scale with surrounding buildings;*

[There are no parking issues, there is ample parking for 6+ cars and, with a maximum of two guests there is never more than a single vehicle. (But most guests use public transport). No additional hard standing was created, and any parking is not out of scale with surrounding buildings.]

- *the need to retain trees, hedgerows, open space and other natural features;*

[The siting of the outbuilding caused no loss of natural features but did, and does involve: replanting of shrubs, clearing of weeds, and removal of many rhododendrons, and re-instatement of a 'lost garden' from 1902.]

- *extensions to dwellings must complement the character of the existing building, particularly in terms of scale and materials, not dominate in terms of size or height, and not have a significantly adverse affect on neighbouring properties; the subdivision of the curtilage of a dwelling for a new house should ensure that the proposed plot can accommodate a house and garden; the new house and garden to be of a scale and character appropriate to the neighbourhood; sufficient garden ground should be retained for the existing house; the privacy of existing properties should not be adversely affected and separate vehicular accesses should be provided;*

[The outbuilding and restored landscaping complements the existing building, and, in any event, due to established hedges, the building and existing dwellings cannot be seen together. The look and feel of the outbuilding is of a woodland lodge - in a wood.]



- *with regard to non-residential uses, whether they can be considered ancillary or complementary to the residential area, and would not result in a significant loss of amenity to the surrounding properties. A significant loss of amenity might be expected to occur as a result of increased traffic, noise, vibration, smell, artificial light, litter, hours of operation and general disturbance;*

[As the attached documents demonstrates there is no loss of amenity to the only neighbouring property. There is no increase in traffic, noise, vibration, artificial light, litter, hours of operation, or general disturbance. (Most days I collect, and recycle litter, from the towpath and woods!)]

#### **West Dunbartonshire Local Plan 2010 Policy GD 1 - Development Control**

*All new development is expected to be of a high quality of design and to respect the character and amenity of the area in which it is located. Proposals will be required to:*

- *be appropriate to the local area in terms of land use, layout and design (including scale, density, massing, height, aspect, effect on day lighting, crime prevention measures and privacy); developers will be required to submit design statements where appropriate;*

[The land use, layout, and design are appropriate for the site, not least confirmed by the letter from WDC, dated 14 October 2008, confirming no further action.]

- *be energy efficient, including considering options for micro-renewable technologies;*

[The building is well insulated and makes use of low energy heating and lighting as appropriate.]

- *ensure that landscaping is integral to the overall design, that important landscape features and valuable species and habitats are conserved and where possible enhanced, and that there is an emphasis on native planting;*

[The restoration of the 'lost garden' and significant new landscaping has certainly enhanced the site. The removal of many invasive rhododendrons continues and there is an emphasis on native planting.]

- *ensure that the value of the historic and natural environment is recognized, and is not devalued or threatened by the proposal;*

[Again, the restoration of the 'lost garden' and use of natural materials from the site for landscaping has certainly enhanced the site. Landscaping and paths are 'soft' and have utilized many materials reclaimed from the site, such as fallen trees and discarded timber.]

- *ensure that open space standards are met;*

[Not applicable.]

- *assess and address any existing or potential increase in flood risk and/or environmental pollution, provide drainage consistent with Sustainable Urban Drainage Systems design guidance and ensure that suitable remediation measures are undertaken on contaminated sites;*

[Not applicable - no environmental pollution issues. The site is some 17m above the 200 year flood event as identified by WDCs own plan.]



- demonstrate, where appropriate, that the development will not result in a negative impact on the water environment;

[Not applicable.]

- ensure that increases in traffic volumes and adverse impacts on air quality are avoided or minimized by including provision for public transport, pedestrian and cycling access, and considering the need for a Green Travel Plan;

[Most guests to the building arrive by public transport and I provide timetable for trains and buses. The site is adjacent Balloch Station and a few minute's walk from Balloch Bus Stance. There are a variety of shops within walking distance so even those few that arrive by car tend not to use them once there. I provide free use of bicycles and cycle route maps and maps of the John Muir / Three Lochs Walking Route.]

- meet the roads, parking and access requirements of the Council (particularly for disabled people and the emergency services) reflecting national guidance where appropriate;

[There is off-road parking, otherwise not applicable.]

- consider the availability of infrastructure and the impact on existing community facilities;

[Not applicable.]

- minimize waste, and provide for the storage, segregation and collection of recyclable and compostable material; a Site Waste Management Plan may be required;

[An extract from the Guide that I provide for guests:

#### **"BINS / RUBBISH / RECYCLING – PLEASE RECYCLE**

Please put plastic drinks bottles, and milk cartons – types 1 & 2 only (rinsed with the tops removed), clean cans & tins, and clean paper and cardboard in the blue wheelie bin. Other plastic, e.g. bags, film, Tetra Paks (fruit juice), yoghurt and margarine pots, go in the green wheelie bin.



Glass bottles and jars: please just leave them for me, take them to the recycling bins opposite Lomond Stores, or in the car park at the Co-op.

Please put compostable material in the brown wheelie bin

Please put all other rubbish in the green wheelie bin."

#### **West Dunbartonshire Local Development Plan (Proposed Plan) Policy BC3**

"Development that would significantly harm the residential amenity, character or appearance of existing neighbourhoods will not be permitted."

[There is certainly no significant harm to the residential amenity, character, or appearance of existing neighbourhoods. The building can barely be seen from anywhere. Balloch is a major tourist centre and the neighbourhood consists of many B&Bs.]



## West Dunbartonshire Local Development Plan (Proposed Plan) Policy LE 7

*Business Development in Mixed Use or Residential Areas.*

[I propose that WDC should support the development under the terms of Policy LE7.]

- ✓ *Proposals for business development, within residential areas or in mixed use schemes will be supported by the Council where it is satisfied that residential amenity or the surrounding uses are not adversely affected. The following criteria will be used in assessing such proposals:*
- ✓ *the effect on residents and adjacent uses in terms of noise, vibration, emissions, traffic, parking, storage of materials, hours of working or other adverse impacts;*
- ✓ *the cumulative effect of any impacts;*
- ✓ *access to the business use: shared access to stand alone business premises will be not be favoured and the cumulative traffic impact of the residential and business elements of an area will be taken into consideration;*

*Reasoned Justification Small firms are recognized in SPP 2 as making an important contribution to the economy. It is considered start-up firms should be encouraged and positive policies used to ensure suitable locations are used for their operation. SPP 2 requires that development plan policies should recognize such businesses where low-impact industry, business and service uses can operate in keeping with housing. Policy LE 7 sets out the criteria for the consideration of small scale business operations within mixed-use or residential areas indicating the requirements such uses need to meet to ensure there are no adverse impacts on the surrounding environment.*

## OBJECTION TO PLANNING APPLICATION

DC15/137



# Jain, Neil & Ruddy Solicitors

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Website: [www.jnrsolicitors.com](http://www.jnrsolicitors.com)

Our Ref: PJ/VC

14 July 2015

## RECORDED DELIVERY

West Dumbartonshire Council  
Development Management  
2<sup>nd</sup> Floor  
Aurora House  
3 Aurora Avenue  
Clydebank  
G81 1BF

Dear Sirs,

**Our Client: Alan Dow – Fisherwood House, Lomond Road, Alexandria, G83 8SL  
Planning Application by Mr Michael Mason  
Application Number: DC15/137**

We act on behalf of the above named Mr Dow, who is the heritable proprietor of Fisherwood House as narrated above. He owns the property next door to the Applicant, Mr Michael Mason, who has made an application for retrospective planning permission for use of an outbuilding as holiday accommodation.

We have been instructed to lodge objections on behalf of Mr Dow and would ask that these be considered with a view to rejecting the Applicant's application for planning permission.

There are a number of matters which arise as a consequence of the proposed application by Mr Mason.

- 1) Firstly it is noted that within document number 3012202, the depiction of the boundaries are wholly inaccurate. It is noted that the Applicant has lodged a number of other drawings in addition, which do properly identify the

**G S P C**

ALSO AT THE TOWN HOUSE, 12 SANDYFORD PLACE, SAUCHIEHALL STREET,  
GLASGOW G3 7NB

Tel: 0141-226 8577 Fax: 0141-226 8338



boundaries of the respective properties. For clarification, Mr Dow's property also comprises the eastern most portion of the house located at the rear of the property. As a consequence, from his kitchen and back door the "outbuilding" is clearly visible. The path which runs adjacent to his back door is approximately 12 feet in width. The outbuilding is located some 6 feet from the edge of this path. It is estimated that the outbuilding is located no more than 18 feet from Mr Dow's back door. This is to be contrasted with the Applicant's property which at no point looks out upon the outbuilding. The presence of the building therefore impacts significantly upon the use and enjoyment of Mr Dow's property rather than that of the Applicants. Copy Land Certificate and Title Plans pertaining to both the properties are attached to these representations to depict accurately, the boundaries of the respective properties.

- 2) The document number 3012201 is noted with concern. (Fisherwood House 'Use of an Outbuilding as Holiday Accommodation' Narrative). In particular, the misrepresentation contained therein, in which Mr Mason states that "*by quirk of the site division, the neighbours back door indicated by the red arrow in the attached boundary plan, opens onto my driveway. But any use of that entrance is entirely an infringement of my privacy*". In terms of Title, Mr Dow is a one half pro-indiviso owner of the path surrounding both properties printed in yellow on the attached Land Certificate. Mr Dow has every right to utilise the path and this right is unfettered. The use by occupants of the outbuilding of that path will impact over his rights as a one half pro-indiviso owner of that path. Furthermore, we are somewhat astounded by the fact that Mr Mason claims that any use of Mr Dow's back door would represent an infringement of his privacy as Mr Dow has a legal right to use the back door and path. In some ways, Mr Mason therefore acknowledges that any use by any third parties would represent an infringement upon Mr Dow's privacy as Mr Dow has a legal right to use the back door and path. Furthermore, as a consequence of the increased footfall, this will have a direct impact upon the maintenance and upkeep of the property owned by our client. The amenity of his own property will be seriously adversely effected by the proposed use.
- 3) As a consequence of the proposed use, this will also have an impact upon privacy and safety of Mr Dow and his family. In particular, with an increased footfall of traffic and strangers entering within the bounds of his property, the risk of break-ins will automatically increase. Historically, Mr Dow gets disturbed by guests who knock on both his front and back door looking for the Applicant. The reason for this is due to the layout and design of the properties whereby Mr Dow's property (both front and back door) are the first to be seen by any guests entering the property. His back door is almost adjacent to the outbuilding and his front door is the first door seen when entering the development as a whole.
- 4) Since 1996 the property has also been designated as a Category B Listed Building. It is submitted that the outbuilding is not in keeping with the architectural design of the property. The outbuilding, contrary to what is stated by Mr Mason can be seen and is clearly visible from Mr Dow's property and is not in keeping with the look and feel of a Category B Listed Building.



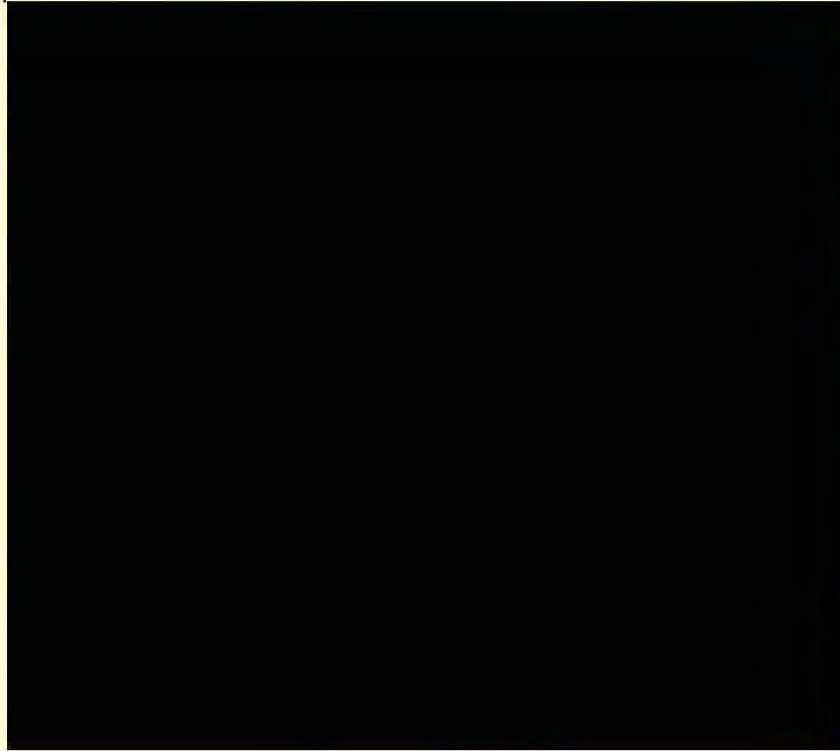
- 5) As per the Title Deeds which have been attached, there is a prohibition upon development within the respective grounds. Separately, in terms of the security Mr Mason has granted to Aviva, one presumes that he requires to obtain their consent to any planning applications as they retain a right over the property. Whilst it is appreciated that this is not a consideration for planning, it ought to form a relevant consideration especially standing the fact that despite an Enforcement Notice being served upon Mr Mason, the outbuilding has continued to be advertised and used for holiday accommodation. One only needs to look at Trip Advisor to see that the outbuilding is being used regularly and indeed a review was submitted in June 2015 of guests using the accommodation. Despite being advised to refrain from using the outbuilding as holiday accommodation, the Applicant continues to actively market the use of the said outbuilding as holiday accommodation. In our view this shows a complete disregard to the Enforcement Notice and seriousness of the requirement of planning permission. This is not a situation whereby historical permission was granted which has been revoked and is under appeal. Mr Mason has no right to continue to advertise the outbuilding as a holiday rental.
- 6) Our client is also concerned over the fact that it is claimed by the Applicant that the outbuilding has been used for the same purpose since 1999. Historically Mr Dow permitted a Portacabin to be placed on Mr Mason's property to assist him for use only as ancillary office space. The fact that this Portacabin has been converted as a "lodge" causes concern. This is to be used as accommodation by guests. There are no foundations to the Portacabin and our client is concerned over the stability and security of same. The toilets located within the outbuilding have been joined to the main sewerage system.
- 7) Within the documentation available online, whilst reference is made to correspondence received from the local authority in 2003 and 2008, no such letters are available and it is unclear whether or not those letters have been produced or indeed are relevant to the proposed use as holiday accommodation.
- 8) Whilst not a material consideration for planning, it is relevant that the continued use of the outbuilding as holiday accommodation will have an adverse impact upon the value of Mr Dow's property.
- 9) It is submitted that the proposed application is contrary to the local plan and in particular policy LE7. The location of the outbuilding is exclusively within a residential area. Namely an area which comprises solely of two semi-detached residential houses which are being occupied as such residential accommodation. The effect of noise, vibration, emissions, traffic and parking are obvious upon the neighbouring property (belonging to Mr Dow). Notwithstanding what is stated within the Application, as is acknowledged by Mr Mason, Mr Dow's property was to retain the larger benefit of the two properties. It is the first house that is seen when entering into the land of the two properties. In order to gain access to the lodge any guests would have to pass by Mr Dow's property. Notwithstanding any directions given to guests will still be mistaken between the two properties given the close proximity. Mr Dow, as per the Title Deeds, has a right of access over





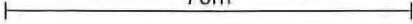
driveway as one enters the properties in question. He therefore has a right of shared access over that entrance and hence any development would permit a further sharing of that access to guests using the "lodge". This would be a contravention of the relevant local policy.

We would therefore be obliged if these representations together with the attached Title Deeds can be taken into account in considering and refusing the application.

Yours faithfully,





 <b>LAND REGISTER OF SCOTLAND</b>	Officer's ID / Date	TITLE NUMBER
	4535 10/9/2002	<b>DMB22555</b>
	ORDNANCE SURVEY NATIONAL GRID REFERENCE	70m 
NS3881NE NS3981NW NS38SE		Survey Scale 1/1250

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REGISTERS OF SCOTLAND



# Registers Direct - Land Register: View Title DMB22555

## Search Summary

<b>Date:</b>	16/09/2014	<b>Time:</b>	10:18:35
<b>Search No.:</b>	2014-02866521	<b>User Reference:</b>	PJ/DOW

## Sasine Search Sheet:

### A. PROPERTY SECTION

<b>Title Number:</b>	DMB22555	<b>Date of First Registration:</b>	01/07/1987
<b>Date Title Sheet updated to:</b>	25/09/2013	<b>Date Land Certificate updated to:</b>	18/07/2002
<b>Hectareage Code:</b>	0	<b>Interest:</b>	PROPRIETOR
<b>Map Reference:</b>	NS3981NW		

## Description:

Subjects being the southmost house of the property FISHERWOOD, FISHERWOOD ROAD, BALLOCH, ALEXANDRIA G83 8SW edged red on the Title Plan. Together with (1) a one half pro indiviso share in the ground forming a pathway which ground is tinted yellow on said last mentioned plan; (2) a one half pro indiviso share in the ground forming a drying green, which ground is tinted pink on said last mentioned plan; (3) a one half pro indiviso share in the ground tinted blue on said last mentioned plan, on which ground is erected a garage building; and (4) a one half pro indiviso share in the ground tinted mauve on said last mentioned plan, on which ground is erected a building comprising washing house and cellars.

## Notes:

1. The land tinted green hereon is not included in this title
2. The minerals are excepted. The conditions under which the minerals are held are set out in the Feu Disposition in Entry 1 of the Burdens Section.
3. The boundary between points indicated on the title plan is/are as follows:

a - b east boundary -outer face

15 JUL 2015

See General Information, Note 2

*This is a Quick Copy which reflects the position at the date the Title Sheet was last updated.*

*It does not have the evidential status of an Office Copy.*



**B. PROPRIETORSHIP SECTION**

**Title Number:** DMB22555

Entry Number	Date of Registration	Proprietor	Consideration	Date of Entry
1	09/02/1999	MICHAEL PAUL MASON Fisherwood House, Lomond Road, Alexandria, G83 8SJ.	£110,250	01/02/1999

**Notes:**

1. There are in respect of the subjects in this Title no subsisting occupancy rights in terms of the Matrimonial Homes (Family Protection)(Scotland) Act 1981 of spouses of persons who were formerly entitled to the said subjects.

2. Schedule of Inhibition, by Peterkins Robertson Paul, Solicitors, 227 Sauchiehall Street, Glasgow;- against said Michael Mason, Fisherwood House, Lomond Road, Balloch, West Dunbartonshire per Lynn C Coull, Registers of Scotland, recorded Register of Inhibitions and Adjudications 27 Oct. 2011.

*This is a Quick Copy which reflects the position at the date the Title Sheet was last updated.*

*It does not have the evidential status of an Office Copy.*

**C. CHARGES SECTION**

**Title Number:** DMB22555

Entry Number	Specification	Date Of Registration
1	Standard Security by said MICHAEL PAUL MASON to AVIVA EQUITY RELEASE UK LIMITED, (No. 3286484), Registered Office 2 Rougier Street, York.	19/08/2013

**Notes:**

1. Indemnity is excluded in terms of Section 12(2) of the Land Registration (Scotland) Act 1979 in respect of any loss resulting from a reduction of the above Standard Security following the Schedule of Inhibitions referred to in the Proprietorship Section.

*This is a Quick Copy which reflects the position at the date the Title Sheet was last updated.*

*It does not have the evidential status of an Office Copy.*

**D. BURDENS SECTION**

**Title Number:** DMB22555 **Number of Burdens:** 7

Entry Number	Burden Preamble
1	Disposition by Trustees of James Campbell and others to The United Turkey Red Company Limited and their assignees, recorded G.R.S. (Dumbarton) 4 Feb. 1922, of (I.) 5.279 Acres, (II.) 1.207 Acres, (III.) 0.467 Acres, (IV.) 0.483 Acres, (V.) 3 Roods 3 Poles 27 yards and (VI.) 1 Rood, the subjects in this Title forming part of said IV subjects, contains the following burdens

- 2 Feu Disposition containing (I.) Feu Disposition by United Turkey Red Company Limited ("the said Granter" hereinafter referred to) to Martha Richardson, Agnes Richardson and George Richardson and their heirs and assignees ("the said Grantees" hereinafter referred to) of a piece of ground extending to 750 square yards and (II.) Charter of Novodamus by said Granter to said Grantees of a plot or area of ground extending to 3 roods 3 poles and 27 yards, recorded G.R.S. (Dumbarton) 10 Jul. 1936 contains the following burdens
- 3 Disposition by (1) Trustees of Martha Richardson, (2) Executors of George Richardson and (3) Agnes Richardson to Hugh Miller Roberts and his heirs and assignees, recorded G.R.S. (Dumbarton) 23 Jun. 1959, of the subjects in this Title contains the following burdens
- 4 Memorandum of Allocation and Minute of Waiver by United Turkey Red Company Limited (the superiors) to the trustees of the late Miss Martha Richardson and others, recorded G.R.S. (Dumbarton) 23 Jun. 1959, of the subjects in this title, allocates feu duty and modifies the terms of the Feu Disposition in Entry 2 as follows
- 5 Disposition by Robert Hervey and others as trustees and others as thereinmentioned to John MacDonald McCallum and Margaret May Forsyth or McCallum and their heirs and assignees, recorded G.R.S. (Dumbarton) 1 Mar. 1967, of the subjects in this title, contains the following burdens
- 6 By a letter dated 9 Jun. 1999 the superior confirmed that they would not pursue any claim for feuduty in respect of the subjects in this Title due to them either in the past or in the future.
- 7 Deed of Servitude by Michael Paul Mason, proprietor of the subjects in this Title (hereinafter referred to as "Property A") in favour of Alan Bruce Dow and Annette Dow, proprietors of the subjects being the north most house of the property Fisherwood, Lomond Road, Balloch (hereinafter referred to as "Property B") contains the following

**Entry  
Number**      **Burden Detail**

- 1 Disposition by Trustees of James Campbell and others to The United Turkey Red Company Limited and their assignees, recorded G.R.S. (Dumbarton) 4 Feb. 1922, of (I.) 5.279 Acres, (II.) 1.207 Acres, (III.) 0.467 Acres, (IV.) 0.483 Acres, (V.) 3 Roods 3 Poles 27 yards and (VI.) 1 Rood, the subjects in this Title forming part of said IV subjects, contains the following burdens: Under the burden of a servitude right of wayleave in favour of us and our successors in that part of our remaining Lands of Tullichewan which is bounded on the north by Drumkinnon Wood on the east by land belonging to the North British Railway Company and others owners of the Dumbarton and Balloch Joint Line on the south by land sometime belonging to the Argyll Motors Limited, and on the west by the Public Road leading from Dumbarton to Luss for a line of pipes through the subjects hereby disposed in the first and second places to the River Leven for the purpose of pumping water to the said part of our remaining Lands immediately hereinbefore described for industrial or other purposes and of access to the said subjects for the purpose of laying the said pipeline and for inspection maintenance repair and renewal thereof - we and our foresaids being bound always to do as little damage as possible to the subjects and to restore the surface thereof which may have been damaged or to pay the amount of such damages (including claims for compensation at the instance of tenants and others) the site of which line of pipes and the amount of which damages shall be fixed,



failing agreement, by two Arbiters to be appointed one by each party or by their Oversman to be named by the Arbiters before entering on the Reference in the event of their differing in opinion.

Entry Number	Burden Detail
2	<p>Feu Disposition containing (I.) Feu Disposition by United Turkey Red Company Limited ("the said Granter" hereinafter referred to) to Martha Richardson, Agnes Richardson and George Richardson and their heirs and assignees ("the said Grantees" hereinafter referred to) of a piece of ground extending to 750 square yards and (II.) Charter of Novodamus by said Granter to said Grantees of a plot or area of ground extending to 3 roods 3 poles and 27 yards, recorded G.R.S. (Dumbarton) 10 Jul. 1936 contains the following burdens: Reserving always to us and our successors the whole mines, minerals and metals within the piece of ground and plot or area of ground above disposed with full power to us and our foresaids or others authorised by us or them to work win and carry away the same and to do all acts and take all proceedings necessary for these purposes on payment of all damages that may be occasioned by such operations to the said piece of ground and plot or area of ground or buildings thereon as such damages shall be ascertained by two arbiters to be mutually chosen or by an Oversman to be appointed by such arbiters in case of their differing in opinion; Declaring however that neither we nor our foresaids shall have power to set down pits on or to open the surface of the said piece of ground and plot or area of ground without the express consent in writing of our said disponees or their foresaids; Declaring further that these presents are granted and the said piece of ground and plot or area of ground above disposed are so disposed with and under the conditions, declarations and others following videlicet:- (First) our said disponees and their foresaids shall be bound to maintain upon the said plot or area of ground the existing self-contained double dwellinghouse or villa which shall not exceed two storeys in height with suitable offices behind; (Second) our said disponees and their foresaids shall be bound at their own expense when called upon by us or our foresaids so far as not already done to erect and thereafter maintain and uphold in good repair in all time coming and if need be renew fences or railings of a type, pattern and material to be approved by us or our foresaids as follows videlicet:- along the east-north-east of the said piece of ground and plot or area of ground, along the south-south-east and west-south-west of the said plot of ground, and along the eastern edge of the footpath adjoining the access road from Lomond Road; and where the said fence or railing forms or shall form the boundary or march between the plot or area of ground hereby disposed de novo and the ground that may be feued to any adjoining or conterminous feuars such fence or railing shall be maintained, upheld and if need be renewed at the mutual expense of our said disponees and their foresaids and such conterminous feuars; (Third) our said disponees and their foresaids shall be bound to maintain and uphold in good condition and repair and if necessary to rebuild the buildings erected or to be erected upon the plot or area of ground above disposed so that they shall be capable of yielding in all time coming a yearly rent equal to at least double of the feuduty after mentioned; (Fourth) no building to be erected on the said plot or area of ground hereby disposed shall (except with the consent in writing of us or our foresaids previously obtained) be erected nearer than thirty feet from the east side of the proposed road forming the continuation of the said access road or otherwise than to front the said road on the west or to have a frontage to both the west and south, no back buildings shall be erected on the said plot or area of ground except a garage or other offices to be used in conjunction with the front</p>



buildings, no buildings shall be erected on the piece of ground hereby disposed other than a garage, greenhouse or toolshed and further no buildings shall at any time be erected on the said piece of ground or plot or area of ground which shall not have slated or tiled roofs and the plans, elevation, building line and site of which shall not have been previously approved of in writing by us or our foresaids; (Fifth) our said disponees and their foresaids are hereby prohibited, debarred and restricted from erecting or having on said piece of ground or plot or area of ground any buildings of a different character from those above specified, also from erecting or having upon the said piece of ground or plot or area of ground hereby disposed any manufactory or public work and from erecting or having thereon any steam engine or machinery for a manufactory or public work and from carrying on upon the premises any of the following trades or occupations, videlicet:- brewer, blacksmith or other smith, wright, joiner, innkeeper or seller of wine, spirits or malt or other liquors without the express consent and authority of us or our foresaids in writing previously obtained and from carrying on any occupation, business or trade upon the premises of such a description as shall be considered by us or our foresaids or neighbouring feuars to be in any degree a nuisance or noxious, nauseous or disagreeable to the tenants, feuars or others adjoining; (Sixth) no sewage of an excrementitious nature shall on any account be allowed to flow from any buildings to be erected upon the piece of ground or plot or area of ground hereby disposed into any of the existing drains or water-courses on our lands and our said disponees and their foresaids shall preserve as pure and fit for agricultural and other purposes as at the term of Whitsunday Nineteen hundred all running water passing through or in the neighbourhood of the said piece of ground and plot or area of ground; (Seventh) our said disponees and their foresaids shall be bound when required by us or our foresaids to form and construct the continuation of said access road twenty six feet in width so far as fronting the plot or area of ground hereby disposed on the west, including therein the hollow forming the bed of the stream after-mentioned when the same has been filled up as hereinafter provided for and also to form and construct along the east side of said continuation road a footpath with kerbstone all of a width and material to be approved of in writing by us or our foresaids or our or their surveyors for the time being or in the option of us or our foresaids to pay, when called upon by us or them, a proportionate share corresponding to the frontage of the plot or area of ground above disposed along the continuation of foresaid access road of the expense of constructing the said continuation road and footpath along same and also of supplying and erecting an iron fence of a pattern and height and on a line to the east of said intended footpath all to be approved of by us or our foresaids in writing and a further to pay in all time coming the whole expense of maintaining in good order and repair said access road and the continuation thereof and the footpath and fence constructed or to be constructed along the same so far as opposite to the said piece of ground and plot of ground hereby disposed all which expense above mentioned shall be sufficiently and conclusively instructed by a statement under the seal or hand of us or our foresaids; Declaring that as regards the said access road and the continuation thereof the maintenance thereof shall include the keeping of the same in a neat and clean condition, the metalling and gravelling thereof and the cutting and dressing of verges et cetera all at the sight and to the satisfaction of us or our foresaids; And our said disponees and their foresaids shall be bound when required by us or our foresaids to form at the point where the continuation of the said access road crosses the stream flowing through the plot of ground hereby disposed, a culvert of a size and material to be approved of by us or our foresaids or our or their Surveyor for the time being for the purpose of carrying the said stream under the foresaid road and



thereafter to fill up with earth and stones or other material to be approved of by us or our foresaids or our or their Surveyor for the time being the hollow through which the said stream flows and this so as to admit of the said road being formed over the said stream of the foresaid width of twenty six feet and on a level to be approved of in writing by us or our foresaids or our or their Surveyor for the time being and also in all time coming to keep and maintain the said culvert in proper order and repair and to keep the same properly cleaned so as to permit of an uninterrupted flow of water through the same; Our said disponees and their foresaids shall also be bound so far as not already done to form and construct at their own expense a proper and suitable drain for the carrying away of sewage from the piece of ground and plot or area of ground hereby disposed and buildings thereon to the satisfaction of us or our foresaids and shall in all time hereafter maintain such drain in good repair; (Eighth) our said disponees and their foresaids shall have no right of property in the River Leven or in any portion of the shore thereof as a pertinent of the property conveyed by these presents or otherwise; and (Ninth) it shall not be competent to our said disponees or their foresaids to divide the subjects hereby conveyed or to dispose the same separately but the said piece of ground shall be used and retained as garden ground in connection with the said plot or area of ground in all time coming and any deed granted in contravention thereof shall be null and void. Declaring that if the said Martha Richardson, Agnes Richardson and George Richardson or their foresaids shall at any time suffer the said feuduty to be two years in arrear or if they shall contravene or fail to implement or observe any of the real liens and burdens, reservations, declarations and others above written, then and in any of these events they shall thereby ipso facto amit and forfeit all right to the said piece of ground and plot or area of ground and the buildings and others thereon, and in that event it shall be lawful to us or our foresaids to take possession of the same as our or their own exclusive property, notwithstanding these presents. Note: The subjects in this Title comprise the whole of the (I.) subjects and part of said (II.) subjects.

Entry Number	Burden Detail
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3	Disposition by (1) Trustees of Martha Richardson, (2) Executors of George Richardson and (3) Agnes Richardson to Hugh Miller Roberts and his heirs and assignees, recorded G.R.S. (Dumbarton) 23 Jun. 1959, of the subjects in this Title contains the following burdens: (First) our said disponee and his foresaids shall be bound to maintain in good order the subjects hereby disposed (Second) the whole parts and pertinents of the Northmost dwellinghouse erected upon the subjects hereby disposed held in common with us and our successors as proprietors of the Southmost dwellinghouse shall be maintained at the mutual expense of our said disponee and his foresaids and of us and our successors as proprietors of the said Southmost dwellinghouse (Third) our said disponee and his foresaids shall be bound to keep the said Northmost dwellinghouse insured against fire to an amount of not less than Two thousand five hundred pounds and in the event of the said dwellinghouse being destroyed or damaged by fire our said disponee and his foresaids shall be bound to apply all sums recovered from the Insurance in restoring the said Northmost dwellinghouse or such part thereof as may have been destroyed or damaged to its former condition, And coverely we bind and oblige ourselves and our successors as proprietors of the Southmost dwellinghouse to keep the said Southmost dwellinghouse insured against fire to the full value thereof and in the event of the said Southmost dwellinghouse being destroyed or damaged by fire to apply all sums recovered from the Insurance in restoring the said Southmost
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dwellinghouse or such part thereof as may have been destroyed or damaged, to its former condition and (Fourth) our said disponee and his foresaids shall be bound to keep the plot or area of ground hereinbefore disposed, open and unbuilt upon except in so far as it is already built upon in all time coming and to use the same as garden or pleasure ground or paths and for no other purpose whatever.

**Entry  
Number**

**Burden Detail**

4

Memorandum of Allocation and Minute of Waiver by United Turkey Red Company Limited (the superiors) to the trustees of the late Miss Martha Richardson and others, recorded G.R.S. (Dumbarton) 23 Jun. 1959, of the subjects in this title, allocates feu duty and modifies the terms of the Feu Disposition in Entry 2 as follows:- (PRIMO) ALLOCATE the feuduty of Thirteen pounds ten shillings before augmentation as payable under the Feu Disposition and Charter of Novodamus in Entry 2: (First) a feuduty of Six pounds fifteen shillings per annum with Thirteen shillings and six pence of augmentation making a total of Seven pounds eight shillings and six pence on the subjects in this Title: and (SECUNDO) at the request of (first) Alister MacIennan MacPhie, Robert Hervey and Alexander More as Trustees of the deceased Martha Richardson, (second) James Richardson and Elizabeth Richardson as Executors of the deceased George Richardson, (third) Agnes Richardson; and (fourth) Hugh Miller Roberts as evidenced by their execution hereof and with effect from the 28 May 1958 notwithstanding the date hereof WAIVE and DISCHARGE the stipulation in the said Feu Disposition and Charter of Novodamus in Entry 2 to the effect that it should not be competent to the proprietors of the subjects disposed thereby or their successors to divide the subjects thereby disposed or to dispose the same separately and that the piece of ground should be used and retained as garden ground in connection with the plot or area of ground containing three roods three poles and twenty seven yards or thereby in all time coming to the effect of permitting the division of the said last mentioned plot or area of ground and the conveyance along with part only of the said last mentioned plot or area of ground of the said piece of ground all in terms of the said Disposition in favour of the said Hugh Miller Roberts.

**Entry  
Number**

**Burden Detail**

5

Disposition by Robert Hervey and others as trustees and others as thereinmentioned to John MacDonald McCallum and Margaret May Forsyth or McCallum and their heirs and assignees, recorded G.R.S. (Dumbarton) 1 Mar. 1967, of the subjects in this title, contains the following burdens:- (First) Our said disponees and their foresaids shall be bound to maintain in good order the subjects hereby disposed: (Second) The whole parts and pertinents of the said Southmost dwellinghouse held in common with the proprietors of the Northmost dwellinghouse shall be maintained at the mutual expense of our said disponees and their foresaids and the proprietors of the said Northmost dwellinghouse and their successors: (Third) Our said disponees and their foresaids shall be bound to keep the said Southmost dwellinghouse insured against fire to an amount of not less than Two Thousand Five Hundred Pounds and in the event of the said dwellinghouse being destroyed or damaged by fire our said disponees and their foresaids shall be bound to apply all sums recovered from the Insurance in restoring the said Southmost dwellinghouse or such part thereof as may have been destroyed or damaged to its former condition: (Fourth) Our said disponees and their foresaids shall be bound to keep the plot or area of ground hereinbefore



disponed, open and unbuilt upon except in so far as it is already built upon in all time coming and to use the same as garden or pleasure ground or paths and for no other purpose whatever.

Entry Number	Burden Detail
6	By a letter dated 9 Jun. 1999 the superior confirmed that they would not pursue any claim for feuduty in respect of the subjects in this Title due to them either in the past or in the future.

Entry Number	Burden Detail
7	Deed of Servitude by Michael Paul Mason, proprietor of the subjects in this Title (hereinafter referred to as "Property A") in favour of Alan Bruce Dow and Annette Dow, proprietors of the subjects being the north most house of the property Fisherwood, Lomond Road, Balloch (hereinafter referred to as "Property B") contains the following: I hereby grant to the proprietors of Property B and their successors in ownership a servitude right of way for pedestrian and vehicular traffic over the area on Property A hatched brown on the Title Plan as a means of access to and egress from Property B; But declaring these presents are granted with and under the following conditions, namely; (One) the said area hatched brown on the said plan shall be kept in proper condition and repair and shall from time to time be repaired at the joint expense of myself and the said proprietors of Property B and their foresaids; (Two) no vehicle shall be left stationary in the said area at any time by the said proprietors of Property B or their successors nor shall there be deposited or left in the said area at any time any articles of any description so that the same may be kept clear of any obstruction at all times; (Three) the said servitude has been granted with reference to the present state of Property B and shall not be extended to apply to any substantially different condition thereof so as to increase the burden on Property A, and the said right shall at all times be exercised so as to cause as little inconvenience as possible to the proprietors of Property A and their successors in ownership.

*This is a Quick Copy which reflects the position at the date the Title Sheet was last updated.*

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(LAND REGISTRATION (SCOTLAND) RULES 2006 Rule 15)



Registers  
of Scotland

LAND REGISTER OF SCOTLAND  
**LAND CERTIFICATE**  
VERSION 12/09/2006

**Title Number:** DMB26535

**Subjects:** FISHERWOOD, LOMOND ROAD,  
BALLOCH



**THIS LAND CERTIFICATE, ISSUED PURSUANT TO SECTION 5(2)  
OF THE LAND REGISTRATION (SCOTLAND) ACT 1979,  
IS A COPY OF THE TITLE SHEET RELATING TO THE ABOVE SUBJECTS.**

**STATEMENT OF INDEMNITY**

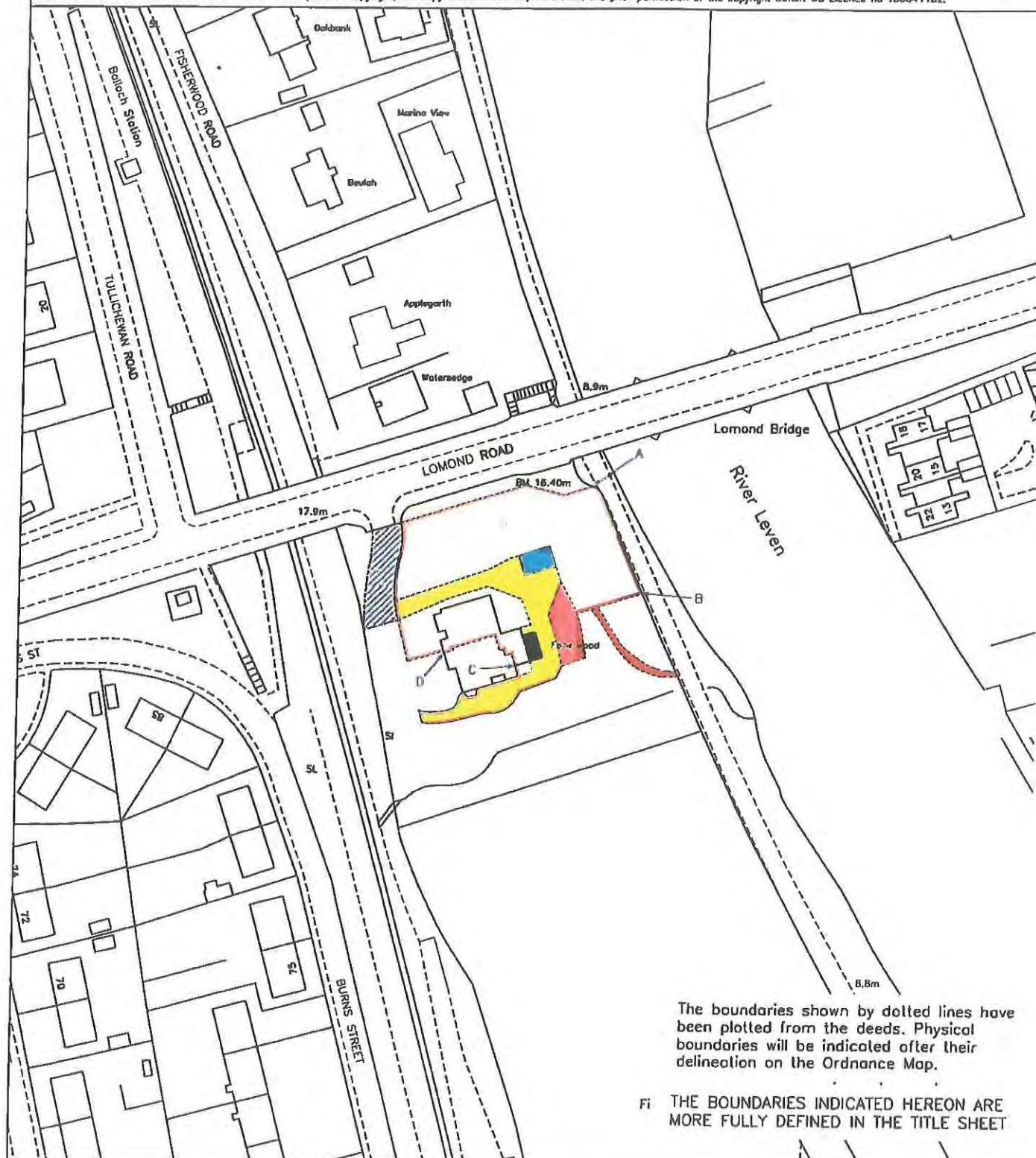
Subject to any specific qualifications entered in the Title Sheet of which this Land Certificate is a copy, a person who suffers loss as a result of the events specified in section 12(1) of the above Act shall be entitled to be indemnified in respect of that loss by the Keeper of the Registers of Scotland in terms of that Act.

**ATTENTION IS DRAWN TO THE GENERAL INFORMATION OVERLEAF.**



 <b>LAND REGISTER OF SCOTLAND</b>	Officer's ID / Date	TITLE NUMBER
	4535 10/9/2002	<b>DMB26535</b>
 <b>ORDNANCE SURVEY NATIONAL GRID REFERENCE</b>	Scale	
	1/1250	
NS3881NE NS3981NW NS38SE	Survey Scale	
	1/1250	

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The boundaries shown by dotted lines have been plotted from the deeds. Physical boundaries will be indicated after their delineation on the Ordnance Map.

FI THE BOUNDARIES INDICATED HEREON ARE MORE FULLY DEFINED IN THE TITLE SHEET



# LAND REGISTER OF SCOTLAND



TITLE NUMBER DMB26535

A 1

## A. PROPERTY SECTION

DATE OF FIRST REGISTRATION  
27 MAY 1988

DATE TITLE SHEET UPDATED TO  
06 FEB 2014

DATE LAND CERTIFICATE UPDATED  
TO  
06 FEB 2014

INTEREST  
PROPRIETOR

MAP REFERENCE  
NS3981NW

### DESCRIPTION

Subjects lying to the south of FISHERWOOD, FISHERWOOD ROAD, BALLOCH, ALEXANDRIA G83 8SW edged red on the Title Plan being the northmost house of the property FISHERWOOD. Together with a right of access to and egress from the subjects over that portion of ground forming a pathway tinted brown on the Title Plan; together also with the servitude right of way contained in the Deed of Servitude in Entry 3 of the Burdens section.

- Note 1 As to the pathway tinted yellow, the drying green tinted pink, the ground with garage thereon tinted blue and the ground with building comprising washing houses and cellars tinted mauve, all on said Title Plan only a one half pro indiviso share is included in this Title.
- Note 2 The minerals are excepted. The conditions under which the minerals are held are set out in the Feu Disposition in Entry 1 of the Burdens Section.
- Note 3 The boundaries between the points indicated on the Title Plan is/are as follows:-

A-B east north east boundary outer face  
C-D south boundary centre line

See General Information, Note 2





# LAND REGISTER OF SCOTLAND



TITLE NUMBER DMB26535

A2

A. PROPERTY SECTION



# LAND REGISTER OF SCOTLAND



TITLE NUMBER DMB26535

B 1

## B. PROPRIETORSHIP SECTION

### ENTRY PROPRIETOR NO

1	ALAN BRUCE DOW Fisherwood House, Lomond Road, Alexandria, G83 8SL.	DATE OF REGISTRATION 06 FEB 2014	CONSIDERATION No Consideration  DATE OF ENTRY 02 APR 2012
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Note: 1 There are in respect of the subjects in this Title no subsisting occupancy rights, in terms of the Matrimonial Homes (Family Protection) (Scotland) Act 1981, of spouses of persons who were formerly entitled to the said subjects.

Note: 2 There are in respect of the subjects in this Title no subsisting occupancy rights, in terms of the Civil Partnership Act 2004, of partners of persons who were formerly entitled to the said subjects.





# LAND REGISTER OF SCOTLAND



TITLE NUMBER DMB26535

## C. CHARGES SECTION

ENTRY  
NO

SPECIFICATION

DATE OF  
REGISTRATION

No Entry



# LAND REGISTER OF SCOTLAND



TITLE NUMBER DMB26535

D 1

## D. BURDENS SECTION

ENTRY  
NO

### SPECIFICATION

- 1 Feu Disposition containing (I.) Feu Disposition by United Turkey Red Company Limited ("the said Granter" hereinafter referred to) to Martha Richardson, Agnes Richardson and George Richardson and their heirs and assignees ("the said Grantees" hereinafter referred to) of a piece of ground extending to 750 square yards and (II.) Charter of Novodamus by said Granter to said Grantees of a plot or area of ground extending to 3 roods 3 poles and 27 yards, recorded G.R.S. (Dumbarton) 10 Jul. 1936 contains the following burdens:

Reserving always to us and our successors the whole mines, minerals and metals within the piece of ground and plot or area of ground above disposed with full power to us and our foresaids or others authorised by us or them to work win and carry away the same and to do all acts and take all proceedings necessary for these purposes on payment of all damages that may be occasioned by such operations to the said piece of ground and plot or area of ground or buildings thereon as such damages shall be ascertained by two arbiters to be mutually chosen or by an Oversman to be appointed by such arbiters in case of their differing in opinion; Declaring however that neither we nor our foresaids shall have power to set down pits on or to open the surface of the said piece of ground and plot or area of ground without the express consent in writing of our said disponees or their foresaids; Declaring further that these presents are granted and the said piece of ground and plot or area of ground above disposed are so disposed with and under the conditions, declarations and others following videlicet:- (First) our said disponees and their foresaids shall be bound to maintain upon the said plot or area of ground the existing self-contained double dwellinghouse or villa which shall not exceed two storeys in height with suitable offices behind; (Second) our said disponees and their foresaids shall be bound at their own expense when called upon by us or our foresaids so far as not already done to erect and thereafter maintain and uphold in good repair in all time coming and if need be renew fences or railings of a type, pattern and material to be approved by us or our foresaids as follows videlicet:- along the east-north-east of the said piece of ground and plot or area of ground, along the south-south-east and west-south-west of the said plot of ground, and along the eastern edge of the footpath adjoining the access road from Lomond Road; and where the said fence or railing forms or shall form the boundary or march between the plot or area of ground hereby disposed de novo





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**D. BURDENS SECTION**

and the ground that may be feued to any adjoining or conterminous feuars such fence or railing shall be maintained, upheld and if need be renewed at the mutual expense of our said disponees and their foresaids and such conterminous feuars; (Third) our said disponees and their foresaids shall be bound to maintain and uphold in good condition and repair and if necessary to rebuild the buildings erected or to be erected upon the plot or area of ground above disposed so that they shall be capable of yielding in all time coming a yearly rent equal to at least double of the feuduty after mentioned; (Fourth) no building to be erected on the said plot or area of ground hereby disposed shall (except with the consent in writing of us or our foresaids previously obtained) be erected nearer than thirty feet from the east side of the proposed road forming the continuation of the said access road or otherwise than to front the said road on the west or to have a frontage to both the west and south, no back buildings shall be erected on the said plot or area of ground except a garage or other offices to be used in conjunction with the front buildings, no buildings shall be erected on the piece of ground hereby disposed other than a garage, greenhouse or toolshed and further no buildings shall at any time be erected on the said piece of ground or plot or area of ground which shall not have slated or tiled roofs and the plans, elevation, building line and site of which shall not have been previously approved of in writing by us or our foresaids; (Fifth) our said disponees and their foresaids are hereby prohibited, debarred and restricted from erecting or having on said piece of ground or plot or area of ground any buildings of a different character from those above specified, also from erecting or having upon the said piece of ground or plot or area of ground hereby disposed any manufactory or public work and from erecting or having thereon any steam engine or machinery for a manufactory or public work and from carrying on upon the premises any of the following trades or occupations, videlicet:- brewer, blacksmith or other smith, wright, joiner, innkeeper or seller of wine, spirits or malt or other liquors without the express consent and authority of us or our foresaids in writing previously obtained and from carrying on any occupation, business or trade upon the premises of such a description as shall be considered by us or our foresaids or neighbouring feuars to be in any degree a nuisance or noxious, nauseous or disagreeable to the tenants, feuars or others adjoining; (Sixth) no sewage of an excrementitious nature shall on any account be allowed to flow from any buildings to be erected upon the piece of ground or plot or area of ground hereby disposed into any of the existing drains or water-courses on our lands and





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## D. BURDENS SECTION

our said disponees and their foresaids shall preserve as pure and fit for agricultural and other purposes as at the term of Whitsunday Nineteen hundred all running water passing through or in the neighbourhood of the said piece of ground and plot or area of ground; (Seventh) our said disponees and their foresaids shall be bound when required by us or our foresaids to form and construct the continuation of said access road twenty six feet in width so far as fronting the plot or area of ground hereby disposed on the west, including therein the hollow forming the bed of the stream after-mentioned when the same has been filled up as hereinafter provided for and also to form and construct along the east side of said continuation road a footpath with kerbstone all of a width and material to be approved of in writing by us or our foresaids or our or their surveyors for the time being or in the option of us or our foresaids to pay, when called upon by us or them, a proportionate share corresponding to the frontage of the plot or area of ground above disposed along the continuation of foresaid access road of the expense of constructing the said continuation road and footpath along same and also of supplying and erecting an iron fence of a pattern and height and on a line to the east of said intended footpath all to be approved of by us or our foresaids in writing and a further to pay in all time coming the whole expense of maintaining in good order and repair said access road and the continuation thereof and the footpath and fence constructed or to be constructed along the same so far as opposite to the said piece of ground and plot of ground hereby disposed all which expense above mentioned shall be sufficiently and conclusively instructed by a statement under the seal or hand of us or our foresaids; Declaring that as regards the said access road and the continuation thereof the maintenance thereof shall include the keeping of the same in a neat and clean condition, the metalling and gravelling thereof and the cutting and dressing of verges et cetera all at the sight and to the satisfaction of us or our foresaids; And our said disponees and their foresaids shall be bound when required by us or our foresaids to form at the point where the continuation of the said access road crosses the stream flowing through the plot of ground hereby disposed, a culvert of a size and material to be approved of by us or our foresaids or our or their Surveyor for the time being for the purpose of carrying the said stream under the foresaid road and thereafter to fill up with earth and stones or other material to be approved of by us or our foresaids or our or their Surveyor for the time being the hollow through which the said stream flows and this so as to admit of the said road being formed over the said stream of the foresaid width of twenty six feet and





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on a level to be approved of in writing by us or our foresaids or our or their Surveyor for the time being and also in all time coming to keep and maintain the said culvert in proper order and repair and to keep the same properly cleaned so as to permit of an uninterrupted flow of water through the same; Our said disponees and their foresaids shall also be bound so far as not already done to form and construct at their own expense a proper and suitable drain for the carrying away of sewage from the piece of ground and plot or area of ground hereby disposed and buildings thereon to the satisfaction of us or our foresaids and shall in all time hereafter maintain such drain in good repair; (Eighth) our said disponees and their foresaids shall have no right of property in the River Leven or in any portion of the shore thereof as a pertinent of the property conveyed by these presents or otherwise; and (Ninth) it shall not be competent to our said disponees or their foresaids to divide the subjects hereby conveyed or to dispose the same separately but the said piece of ground shall be used and retained as garden ground in connection with the said plot or area of ground in all time coming and any deed granted in contravention thereof shall be null and void. Declaring that if the said Martha Richardson, Agnes Richardson and George Richardson or their foresaids shall at any time suffer the said feuduty to be two years in arrear or if they shall contravene or fail to implement or observe any of the real liens and burdens, reservations, declarations and others above written, then and in any of these events they shall thereby ipso facto amit and forfeit all right to the said piece of ground and plot or area of ground and the buildings and others thereon, and in that event it shall be lawful to us or our foresaids to take possession of the same as our or their own exclusive property, notwithstanding these presents. Note: The subjects in this Title comprise the whole of the (I.) subjects and part of said (II.) subjects.

- 2 Disposition by (1) Trustees of Martha Richardson, (2) Executors of George Richardson and (3) Agnes Richardson to Hugh Miller Roberts and his heirs and assignees, recorded G.R.S. (Dumbarton) 23 Jun. 1959, of the subjects in this Title contains the following burdens:

(First) our said disponent and his foresaids shall be bound to maintain in good order the subjects hereby disposed (Second) the whole parts and pertinents of the Northmost dwellinghouse erected upon the subjects hereby disposed held in common with us and our successors as proprietors of the Southmost dwellinghouse shall be maintained at the mutual expense of our said disponent and his foresaids and of us and our successors as proprietors of the said





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Southmost dwellinghouse (Third) our said disponent and his foresaids shall be bound to keep the said Northmost dwellinghouse insured against fire to an amount of not less than Two thousand five hundred pounds and in the event of the said dwellinghouse being destroyed or damaged by fire our said disponent and his foresaids shall be bound to apply all sums recovered from the Insurance in restoring the said Northmost dwellinghouse or such part thereof as may have been destroyed or damaged to its former condition, And conversely we bind and oblige ourselves and our successors as proprietors of the Southmost dwellinghouse to keep the said Southmost dwellinghouse insured against fire to the full value thereof and in the event of the said Southmost dwellinghouse being destroyed or damaged by fire to apply all sums recovered from the Insurance in restoring the said Southmost dwellinghouse or such part thereof as may have been destroyed or damaged, to its former condition and (Fourth) our said disponent and his foresaids shall be bound to keep the plot or area of ground hereinbefore disposed, open and unbuilt upon except in so far as it is already built upon in all time coming and to use the same as garden or pleasure ground or paths and for no other purpose whatever.

- 3 Deed of Servitude by Michael Paul Mason, proprietor of the subjects being the south most house of the property Fisherwood, Lomond Road, Balloch (hereinafter referred to as "Property A") in favour of Alan Bruce Dow and Annette Dow, proprietors of the subjects in this Title (hereinafter referred to as "Property B") contains the following:

I hereby grant to the proprietors of Property B and their successors in ownership a servitude right of way for pedestrian and vehicular traffic over the area on Property A hatched blue on the Title Plan as a means of access to and egress from Property B; But declaring these presents are granted with and under the following conditions, namely;

(One) the said area hatched blue on the said plan shall be kept in proper condition and repair and shall from time to time be repaired at the joint expense of myself and the said proprietors of Property B and their foresaids; (Two) no vehicle shall be left stationary in the said area at any time by the said proprietors of Property B or their successors nor shall there be deposited or left in the said area at any time any articles of any description so that the same may be kept clear of any obstruction at all times; (Three) the said servitude has been granted with reference to the present state of Property B and shall not be extended to apply to any substantially





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different condition thereof so as to increase the burden o  
Property A, and the said right shall at all times be exercised s  
as to cause as little inconvenience as possible to the proprietor  
of Property A and their successors in ownership.

## CONSULTATION RESPONSE

DC15/137



Housing, Environment & Economic Development  
Road Services  
Observations on Planning Application

Contact: John Walker  
Tel: Ext. 7285

Planning Application No: DC15/137  
Applicant: Mr Michael Mason  
Proposed Development: Use of outbuilding as holiday accommodation (retrospective)  
Location: 1 Fisherwood House, Lomond Road, Alexandria  
Type of Consent: - Retrospective  
Ref. No(s) of drg(s) submitted:

Proposal Acceptable?	Y or N
<b>1. EXISTING ROADS</b>	
(a) General Impact of Development	Y
(b) Type of Connection(s) (road junction/footway crossing)	Y
(c) Location(s) of Connection(s)	Y
(d) Sightlines (2.5m x 120m)	Y
(e) Pedestrian Provision	Y
<b>2. NEW ROADS</b>	
(a) Widths (.....)	N/A
(b) Layout (horizontal/vertical alignment)	N/A
(c) Junction details (location/s/radii/sightlines)	N/A
(d) Turning Facilities	N/A
(e) Traffic Calming	N/A
(f) Pedestrian Provision	N/A
(g) Provision of Utilities	N/A
<b>3. SERVICING AND CAR PARKING</b>	
(a) Servicing Arrangements/Driveways	Y
(b) Car Parking Provision (6 spaces)	Y
(c) Maximum Parking Standards	Y
(d) Layout of Parking Bays/Garages	Y

Item Ref.	Comments
1a	This is a retrospective application to use an existing outbuilding as holiday accommodation. This has been done informally for some time.
3a(i)	A legal agreement should be sought to ensure that all premises have right of access.
3a(ii)	As no scaled drawings of the existing driveway or access is provided, general conditions are: Minimum width of 5.5m for first 10 metres of access from Lomond Road (A811). This will conform to Fig 5.6** and also provide a passing place for access to the parking area, conforming to Fig 5.9**. The widened access and parking area should be intervisible.
3d	Each parking space should have minimum dimensions of 4.8m x 2.5m with an aisle of 6m to conform to Fig 7.2**. Any variation should conform to Table 7.1**. The parking spaces should be delineated by roadmarking, contrast paving etc.

<b>4. RECOMMENDATION</b>	No objections subject to conditions
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**5. CONDITIONS/REASONS FOR REFUSAL/DEFERMENT:-**

(i) See notes

**6. NOTES FOR INTIMATION TO APPLICANT**

(i) Construction Consent (S21)*	Not required
(ii) Road Bonds (S17)*	Not required
(iii) Road Opening Permit (S56)*	Not required
(iv) Transportation Statement / Assessment	Not required
(v) Flood Risk Assessment	Not required

\* Relevant Section of the Roads (Scotland) Act 1984

\*\* Relevant Section of WDC Roads Development Guide

Signed  
Head of Land Services

Date 16/07/2015

Copies to: Planning  
Housing and Technical Services

RELEVANT LOCAL PLAN AND PROPOSED LOCAL DEVELOPMENT PLAN  
POLICIES

DC15/137





in place for these areas. The importance of design is reflected both in SPP 1, which indicates that a proposal may be refused solely on design grounds, and SPP 3. A number of recent Planning Advice Notes (for example on Housing Quality, New Residential Streets, Designing Safer Places and Inclusive Design) provide further advice and information on good practice in terms of housing design. Options for micro-renewable technologies should be considered as part of a range of energy efficiency measures. Open space and car parking facilities are essential elements of acceptable housing layouts, and the Council will expect developers to conform to the standards laid down by Policy R2 and the Roads Development Guide respectively and in particular consider the development of Home Zones. Existing trees, hedges, shrubs and other natural and manmade features contribute to landscape quality and biodiversity, and should be retained and enhanced. In relation to access to new dwellings, developers will be strongly encouraged to provide homes which are accessible to all and will meet the needs of a growing elderly population - design and layout should comply with the Housing for Varying Needs guidance.

## Development within Existing Residential Areas

### 6.37

As well as ensuring that new residential development reaches the highest standard, it is also vital that the character and amenity of existing residential areas is protected and enhanced by any new development which is proposed. This is particularly important when, as a matter of policy, development is being actively promoted within the existing built up area.

## 6.38 Policy H5 - Development within Existing Residential Areas

### 6.38.1

The character and amenity of existing residential areas, identified on the Proposals Map, will be safeguarded and where possible enhanced. Development within existing residential areas will be considered against the following criteria:

- the need to reflect the character of the surrounding area in terms of scale, density, design and materials;
- the requirement to avoid over development which would have an adverse effect on local amenity, access and parking or would be out of scale with surrounding buildings;
- the need to retain trees, hedgerows, open space and other natural features;
- extensions to dwellings must complement the character of the existing building, particularly in terms of scale and materials, not dominate in terms of size or height, and not have a significantly adverse affect on neighbouring properties;







- the subdivision of the curtilage of a dwelling for a new house should ensure that the proposed plot can accommodate a house and garden; the new house and garden to be of a scale and character appropriate to the neighbourhood; sufficient garden ground should be retained for the existing house; the privacy of existing properties should not be adversely affected and separate vehicular accesses should be provided;
- with regard to non-residential uses, whether they can be considered ancillary or complementary to the residential area, and would not result in a significant loss of amenity to the surrounding properties. A significant loss of amenity might be expected to occur as a result of increased traffic, noise, vibration, smell, artificial light, litter, hours of operation and general disturbance; and
- the proposal conforms with other Local Plan policies.

### **Reasoned Justification**

#### **6.38.2**

This policy seeks to ensure that the character of existing residential areas is protected and that all development proposals within these areas will maintain or enhance their amenity. It is considered that using sympathetic design, avoiding over-development and retaining existing landscape features is the best way of achieving this. It is particularly important that the development of infill and gap sites should not be at the expense of open space which makes an important contribution to the quality of local environments.

#### **6.38.3**

The introduction of small-scale non-residential uses to existing residential areas may be acceptable, but their impact on the residential environment will be the overriding consideration. Policy H 5 indicates the factors which might lead to a loss of amenity in an existing area. However, there may be benefits in encouraging some other suitable uses into existing residential areas, for example nursing homes, children's nurseries and offices, which could provide small-scale local services and employment opportunities.

### **Priority Areas**

#### **6.39**

The Scottish Government has identified five strategic objectives for a Wealthier and Fairer, Healthier, Smarter, Safer and Stronger and Greener Scotland. The Fairer Scotland Fund has replaced several previous funding streams, including the Community Regeneration Fund, and will help the Community Planning Partnership regenerate disadvantaged communities. Allocations of the Fund were informed by using the Scottish Index of Multiple Deprivation.



## **5.23 Policy LE 7 - Business Development in Mixed Use or Residential Areas**

### **5.23.1**

**Proposals for business development, within residential areas or in mixed use schemes will be supported by the Council where it is satisfied that residential amenity or the surrounding uses are not adversely affected. The following criteria will be used in assessing such proposals:**

- the effect on residents and adjacent uses in terms of noise, vibration, emissions, traffic, parking, storage of materials, hours of working or other adverse impacts;
- the cumulative effect of any impacts;
- access to the business use: shared access to stand alone business premises will be not be favoured and the cumulative traffic impact of the residential and business elements of an area will be taken into consideration; and
- the proposal conforms with other Local Plan policies.

### **Reasoned Justification**

#### **5.23.2**

Small firms are recognised in SPP 2 as making an important contribution to the economy. It is considered start-up firms should be encouraged and positive policies used to ensure suitable locations are used for their operation. SPP 2 requires that development plan policies should recognise such businesses where low-impact industry, business and service uses can operate in keeping with housing. Policy LE 7 sets out the criteria for the consideration of small scale business operations within mixed-use or residential areas indicating the requirements such uses need to meet to ensure there are no adverse impacts on the surrounding environment.





## 5.24 Policy LE 8 - Tourist Industry Development

### 5.24.1

The Council will support applications for tourist industry developments throughout the Plan area conditional on the criteria below being satisfied. The Council recognises the Forth and Clyde Canal Corridor and the Lower Clyde and Firth of Clyde as Tourism Development Areas.

All tourist related development proposals will be required to satisfy the following criteria:

- there are no adverse environmental, landscape, infrastructure and transport implications;
- it is shown there is a clear locational need;
- it is established there is a significant economic benefit;
- the proposal is compatible with Policy R 4 (within the Forth and Clyde Canal Corridor); and
- the proposal conforms with other Local Plan policies.

## Reasoned Justification

### 5.24.2

Tourism is an important element of the West Dunbartonshire economy, particularly at Balloch at the southern edge of the Loch Lomond and the Trossachs National Park. Other parts of the Plan area are expected to benefit from the proximity of the National Park. The Lower Clyde and Firth of Clyde and the Forth and Clyde Canal Corridor are seen as areas for further expansion of tourist based industries. Policy LE 8 aims at increased employment from tourist related developments whilst satisfying environmental, transport and other issues. The suitability of sites for tourist development will be considered against the listed criteria.



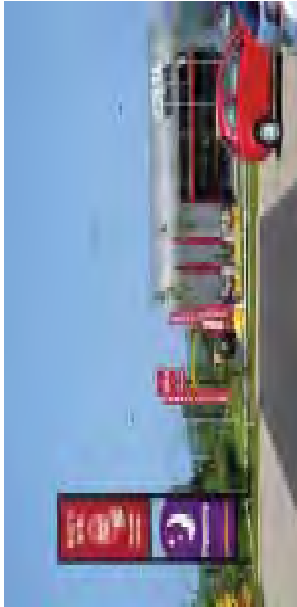
businesses are not affected and that the supply of land and premises for business and industrial uses is not unduly reduced by such changes.

#### Policy GE2

5.4.4 Development of Use Class 4, 5 and 6 uses will be supported within the existing business and industrial areas identified on the Proposals Map. Proposals for alternative uses will be assessed with regard to:

- the impact on the operations of existing uses in the area;
- the impact on the suitability of the area for future industrial and business investment;
- the impact on the availability of land and buildings for business, industry or storage and distribution uses;
- the cumulative impact of non Use Class 4, 5 & 6 uses with regard to the above considerations;
- the availability of other locations for the proposed use; and
- the positive contribution the proposed use can make to the area.

through West Dunbartonshire and contribute to the local economy. The provision of such facilities in clusters maximises convenience and minimises impact on traffic flow. Any retail uses at roadside service locations should be predominantly for the purpose of passing trade rather than to serve the resident population of West Dunbartonshire.



#### Policy GE3

5.5.2 Appropriate development which will enhance roadside facilities at Milton and Lomondgate will be supported where it does not significantly impact on trade within town centres.

### 5.5 Roadside Services

5.5.1 In West Dunbartonshire there are clusters of roadside services providing facilities such as petrol stations, shops, cafes, restaurants and hotels. The largest of these are located at Milton and Lomondgate. These provide convenient facilities for people visiting and passing

5.6.2 Tourism facilities include accommodation, ranging from B&Bs to hotels, infrastructure such as car parks or paths, and attractions. The Council has adopted a recommendation of its Strategic Advisory Board to investigate the delivery of a new major visitor attraction in the area as a means of growing this key sector of the economy.

5.6.3 Tourism facilities are generally supported by this Plan. They should be appropriately located and designed so as not to impact on residents and existing businesses, or the environment which attracts visitors to West Dunbartonshire.

#### Policy GE4

5.6.4 New tourist accommodation, attractions and supporting infrastructure will be supported in appropriate locations which avoid adverse impact on the green network and built heritage.

### 5.7 Glasgow Airport

5.7.1 Glasgow Airport is a major economic driver for Scotland, and particularly west central Scotland. The airport provides jobs directly to approximately 180 people in West Dunbartonshire and supports a number of West Dunbartonshire based jobs indirectly. It offers further support to West Dunbartonshire's

### 5.6 Tourism

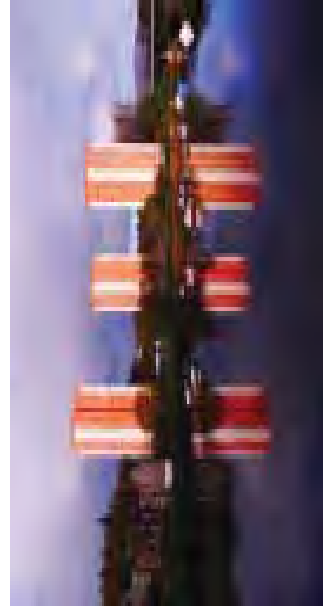
5.6.1 Tourism is recognised by the Council's Economic Development Strategy as a key economic sector for West Dunbartonshire. This reflects the proximity of Loch Lomond and the National Park and other visitor attractions such as Dumbarton Castle.

puts pedestrians first. Neighbourhoods should have a variety of house types to meet the needs of people at different stages in their lifecycle. New homes should be designed taking account of issues that are important to residents such as the need for adequate and flexible internal space, energy efficiency, noise insulation and natural light.

**6.6.3** Key elements of design and the standards expected for all new housing development will be set out in Residential Development Principles for Good Design Supplementary Guidance.

## 6.7 Existing Neighbourhoods

**6.7.1** New house-building will form only a small part of the overall number of houses in West Dunbartonshire. The majority of residents live in well-established residential areas. It is important that these areas are kept or made as attractive as possible for the residents living there.



**6.7.2** The term 'residential amenity' refers to the pleasantness of living somewhere. It reflects the appearance of buildings and their surroundings, the amount and quality of open and green spaces, the level of traffic, noise and privacy. Residential amenity can be adversely affected by development which is out of character in terms of design or overdevelopment, removes valued open space, introduces an inappropriate amount of traffic or noise, or overlooks private areas. Householder development such as extensions, driveways and decking will generally be acceptable except where there is a significant adverse impact on neighbours. Supplementary Guidance will be produced on this matter. Local shops, community uses and some small scale employment uses such as nurseries and offices may add to the attractiveness of a residential area and provide convenient services, but need to respect the amenity of the area.

### Policy BC4

**6.7.3** Development that would significantly harm the residential amenity, character or appearance of existing neighbourhoods will not be permitted.

## 6.8 Community Facilities

**6.8.1** In addition to housing, there are a range of other facilities that contribute to a community being attractive and successful, for example

schools, local shops, health facilities, leisure centres, community halls, quality open spaces and outdoor sports facilities.



**6.8.2** In 2013, the Council approved a 10 year Capital Plan with specific projects identified for development in the period to 2016. Projects identified by this Local Development Plan include a new Kilpatrick Secondary School on the site of the current school, a shared campus for early and primary school education in Bellsmyre on the site of the current St Peter's primary school, a new cemetery for Dumbarton and an extension to the Vale of Leven cemetery. A site for the extension to the Vale of Leven cemetery is still to be identified. A replacement school for Our Lady and Saint Patrick's secondary school in Dumbarton for which a site



## PROPOSED CONDITIONS

DC15/137

**Proposed conditions for DC15/137 Use of outbuilding as holiday accommodation at Fisherwood House, Lomond Road, Alexandria**

**Condition 1** Within one month of the date of this consent, details (including the size, design, location and construction materials) of new directional signage to be erected on the property shall be submitted for the written approval of the planning authority. The approved signage shall clearly identify and direct guests to the relevant entrance doorway into Fisherwood House and the guest parking area, and shall be implemented within one month following its approval and retained thereafter whilst the premises are in use for holiday lets.

**Reason** To minimise the risk of disturbance to the occupants of the adjoining property arising from guests mistakenly calling at their door or entering their property.

**Condition 2** Within one month of the date of this consent, details of improvements to be made to the guest parking area shall be submitted for the further written approval of the planning authority. The parking area shall be cleared of overgrown vegetation and shall be capable of accommodating a minimum of four cars, with each parking space having minimum dimensions of 4.8 metres by 2.5 metres. Each parking space shall be clearly delineated and shall be retained at all times unless otherwise agreed in writing with the planning authority.

**Reason** To ensure that there is sufficient parking for guests in an appropriate location that does not cause disturbance to the adjoining residential property.

**Condition 3** The outbuilding shall only be used as holiday accommodation or for purposes incidental to the domestic use of the main house. At no time shall it be used as a self contained dwellinghouse.

**Reason** To ensure that the outbuilding does not become a dwellinghouse in its own right as such use would be detrimental to the character and amenity of the area..